

Earlsmead Primary School

## **COMPLAINTS POLICY**



***SUCCESS for ALL***

<b>Written by</b>	J. Stangroom
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## Mission Statement

At Earlsmead Primary School we encourage all members of our school community to strive to be the best they can be and develop new skills that empower them for life-long learning in order to become confident, valuable members of society.

We create an inclusive, supportive, safe and challenging environment where all contributions are valued.

Learning is motivating and independence is encouraged hence all become reflective, self-learning team members with a positive sense of wellbeing and a love of learning.

## Our Vision

Working in partnership with children, parents, staff and Governors as a community we will achieve *Success for All* through:

**S**ecuring resilience

**U**nderstanding values and respecting others

**C**ommitting to our learning

**C**ommunity involvement

**E**quality for all

**S**triving to do our very best

**S**etting high expectations

## **Tithe Academy: Complaints Policy Key Points and Summary**

1. Tithe Academy takes all concerns or complaints seriously. Taking informal concerns seriously at the earliest stage reduces the numbers of formal complaints and reflects the commitment to working effectively with all members of the community.
2. This policy will be operated by each school that is part of Tithe Academy.
3. This policy aims to ensure that:
  - As far as possible all concerns should be dealt with as informally as possible.
  - All complaints are dealt with as quickly and sensitively as possible, and by the person best able to do so.
  - Where a formal process is required, the steps involved are clearly outlined.
  - Individuals are aware of their responsibilities.
4. The emphasis is to understand, investigate and resolve the complaint as early as possible.
5. The formal process has three stages:
  - a. Complaint heard by a member of staff.
  - b. Complaint heard by the relevant Headteacher (or Head of School or the Executive Headteacher).
  - c. Appeal heard by a Complaints Panel.

### **1. Introduction and Statement of Intent**

1. Tithe Academy takes all concerns or complaints seriously. Taking informal concerns seriously at the earliest stage reduces the numbers of formal complaints and reflects the commitment to working effectively with all members of the community.
2. This policy aims to ensure that:
  - As far as possible all concerns should be dealt with as informally as possible.
  - All complaints are dealt with as quickly and sensitively as possible, and by the person best able to do so.
  - Where a formal process is required, the steps involved are clearly outlined
  - People are aware of their responsibilities.
3. This policy outlines how complaints will be dealt with by the school in accordance with the requirements of The Education (Independent School Standards) (England) Regulations 2014, as amended.

## **2. Scope and Applicability**

4. This policy applies to all complaints received by the Trust, irrespective of who makes the complaint. This policy therefore applies to complaints received from parents/carers of pupils and to complaints from any other individual.

5. This policy applies to all volunteers, staff, contractors, trustees and governors.

6. This policy will be followed in respect of all complaints against the school except in the following areas (where separate policies exist):

- a. child protection allegations;
- b. exclusions;
- c. admissions;
- d. complaints about statements of SEND/ EHC Plans;
- e. disciplinary issues relating to members of staff;
- f. allegations of abuse.

7. Should a complaint, informal or formal, reveal an issue for which other procedures exist (for example, child protection) then it will be dealt with under those procedures rather than as a complaint.

8. Please note that anonymous complaints may hinder our ability to investigate effectively. All complaints should be brought within 3 months of the date of the incident to which the complaint relates.

## **3. The Policy - Concerns and Complaints**

9. It is important to distinguish between a “concern” and a “complaint”. Most concerns can be made informally to the initial member of staff and be resolved without the need to go through the formal complaint procedures.

Initial concerns should be raised with the school as soon as possible to allow the matter to be considered carefully, potentially including the following information (as appropriate to the issue that has been raised):

- Clarifying the nature of the concern and what remains unresolved from the perspective of the person raising the concern; and
- Establishing what has happened so far, and who has been involved, including seeking input from those who have been involved.

10. A concern may arise (for example):

- From uncertainty regarding the application of school rules or disciplinary procedures.
- From misunderstanding or misrepresentation of an incident which has taken place inside or outside the classroom.

- Where a parent believes that their child has been misunderstood or treated unfairly and feels it necessary to raise the matter so that steps may be taken to restore goodwill.
- Where a parent believes that their child is being bullied or has suffered some form of discrimination and brings the matter to the school's notice so that action can be taken to prevent a recurrence.

11. Concerns should normally be raised with the member of teaching staff most directly involved in the situation giving rise to the concern. Parents will appreciate that it is helpful if a concern is expressed as soon as possible after the relevant incident. The staff member will respond as soon as practicable, and in any case within three working days; if this time limit is not practicable, the complainant will be informed and the period may be extended.

12. A complaint may arise (for example):

- When an individual has previously raised a concern and is not satisfied with the response offered; and / or
- Where an individual has serious disquiet over an incident that has taken place or a decision made in the school and believes the school has fallen short of appropriate standards.

13. Complaints should be recorded, either by the individual (writing to the Headteacher or completing the Complaint Form at the end of this document for instance), or by a member of staff following a Stage 1 meeting with the individual.

*Note* – if the complaint concerns the Headteacher any correspondence should be addressed to the Chair of Governors.

14. All complaints, including all Complaint Forms, will be held by the Headteacher.

### **The Policy - Investigating Complaints**

15. The person investigating the complaint will make 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; and
- Keep notes of the interview.

## **The Policy - Resolving Complaints**

16. At each stage in the procedure the person attempting to resolve the complaint will keep in mind ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is a valid complaint (in whole or in part) without admitting liability.

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 explanation of the steps that have been taken to ensure that it will not happen again; and
- An undertaking to review School policies in light of the complaint.

17. Complainants will be 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.

18. At all stages those hearing the complaint will attempt to identify areas of agreement between the parties, and to clarify any misunderstandings that might have occurred in order to create a positive atmosphere in which to discuss any outstanding issues.

19. At any stage the relevant Headteacher, is able consider whether a complaint is vexatious, unreasonably persistent, or whether the complainant has engaged or is engaging in unreasonable behaviour in accordance with section 7 of this policy.

If the relevant Headteacher considers that the provisions of Section 7 apply they may act accordingly to ensure any legitimate complaint is appropriately investigated while ensuring that any unreasonable elements or behaviour is managed.

## **The Policy - Stages of Formal Complaint**

### **Stage 1: Complaint heard by a member of staff**

20. It is the interests of everyone that complaints are resolved at the earliest possible stage. The experience of the first contact between the complainant and the school can be crucial in determining whether their complaint will escalate.

21. Staff need to be sensitive to any potential actual or perceived conflicts of interest or difficulties of a particular member of staff being involved in investigating the complaint.

22. To ensure clarity of understanding, a Complaint Form may need to be completed. This ensures that there is no conflict in determining what the complaint consists of and the action taken by members of staff.

23. The member of staff will ensure that they have investigated it appropriately. This may include a meeting with the complainant.

24. The member of staff investigating the complaint will respond to the complainant outlining their response to the complaint and any action that has or will be taken.

25. It is normally expected that complaints will be acknowledged within five working days, and the Stage 1 process completed within fifteen school days. If it is clear that the process is going to take longer than this, the reasons for this should be explained to the complainant.

26. The member of staff should update the Complaints Form and pass this to the Headteacher for retention, alongside their written response to the complainant.

**Stage 2:** Complaint heard by appropriate senior member of staff appointed by the Headteacher

27. The complainant should write to the Headteacher giving details of either the areas of the complaint left outstanding following Stage 1 or concerning the Stage 1 process. This notification needs to be received within fifteen school days of the decision from stage 1 being issued to the complainant otherwise it will be deemed that the decision is accepted and the complaint will be closed.

28. The Headteacher may formally reject a complaint if, in their judgment, the complaint

- Was received too long after the alleged incident for realistic investigation to take place;
- Does not identify specific actions or incidents that are capable of being investigated;
- Refers only to issues that have already been determined;
- Is vexatious/**malicious**; or
- Raises only minor matters that should have been resolved in discussion with the staff member involved.

29. The Headteacher will nominate a senior member of staff to investigate these issues (the “investigating officer”), or will escalate the complaint to the **Chief Executive Officer** where that is appropriate (for instance if the complaint raises issues that affect more than one school within the Trust or if the complaint is about a Governor or Trustee). If the complaint is escalated they will nominate a senior member of staff to investigate the issues (or the Chair of Governors if a complaint is about a Governor or another Trustee if the complaint is about a Trustee).

30. The investigating officer will consider both the original complaint and the process followed during Stage 1. They will report to the Headteacher.

31. Following the report of the investigating officer, the Headteacher can:

- Dismiss the complaint in whole or in part (including if there is insufficient evidence to uphold the complaint);
- Uphold the complaint in whole or in part;

- Decide on appropriate action to resolve the complaint; or
- Recommend changes to the school's systems or procedures.

32. The Headteacher will put their judgement and rationale, including details of the process followed, in writing to the complainant.

33. It is normally expected that the Stage 2 process would be completed within fifteen school days of the Headteacher initiating Stage 2. If it is clear that the process is going to take longer than this, the reasons for this should be explained to the complainant.

34. If the investigating officer makes any recommendations regarding changes to school processes as a result of the investigation, or the Headteacher decides these are necessary following consideration of the findings of the investigating officer, the Headteacher will be responsible for reviewing these recommendations and implementing them where appropriate. Acceptance of recommendations will be at the discretion of the Headteacher, unless the investigation reveals processes that do not comply with statutory, Funding Agreement, or DfE/ESFA requirements when the Headteacher will be required to ensure compliance as soon as possible.

35. The Headteacher should update the Complaints Form which should be completed **and kept** for retention, along with a copy of their written response to the complainant.

### **Stage 3: Panel Hearing**

36. The complainant should write to the appropriate person giving details about the aspects of the decision or the Stage 2 process that they are appealing against. The appropriate person will be the Chair of the Local Governing Body for all complaints except those where the complaint was escalated in Stage 2; in those instances, the appropriate person will be the Chair of Governors or Trustees.

37. The Chair of the Local Governing Body /Trustees may reject the request for a Panel Hearing if, in their judgment, the request:

- Is vexatious, **malicious** or abusive; and / or
- Refers only to issues that have already been reasonably determined and with no reasonable basis (such as new information) upon which an appeal hearing could reach a different decision.

38. The Chair of the Local Governing Body/Trustees, or a nominated Governor, will convene a Complaints Panel. This Panel will comprise at least three individuals, none of whom will have been directly involved in previous consideration of the complaint. At least one member of the Panel will be independent of the management and running of the Trust and at least one member of the Panel will be a Governor of the school concerned. The panel will have the powers to determine the complaint. In the unlikely event that more than one session is required to hear the appeal, the



individuals on the Panel will remain the same. The Panel members will elect their Chair.

39. Any Governors who were part of the Panel Hearing would not be part of any panel that was subsequently required for a disciplinary hearing regarding a member of staff.

40. The Panel Hearing should normally be heard within fifteen school days of the Chair of the Local Governing Body receiving notice of the complaint progressing to Stage 3, ensuring that the complainant is given reasonable notice and that reasonable endeavours are made to arrange a time and date that the complainant can attend.

41. Any documentation from either party should be circulated to all parties five school days before the hearing.

42. The complainant is able to attend the Panel Hearing, and may be accompanied by one other individual at the Panel Hearing (and if the complainant is a child, they may be accompanied by their parent(s) and another person).

43. The Panel Hearing will be heard in private, provide an opportunity for the complainant and for relevant Headteacher / Head of School (or other staff as appropriate, including the **CEO**) to present and for all presenters to be questioned by the Panel and the other party (through the Chair).

44. The Panel will, once the presenters have left the hearing, give careful consideration to the substance of the complaint, consider all the views expressed, and decide the outcome. The decision will be made by a simple majority of the Panel; a unanimous decision is not required.

45. The panel can:

- Dismiss the complaint in whole or in part;
- Uphold the complaint in whole or in part;
- Decide on appropriate action to resolve the complaint; or
- Recommend changes to the school's systems or procedures.

46. The decision of the panel is binding. A copy of the report and the findings will be provided within five working days of the hearing to the complainant, the relevant Headteacher, **the CEO**, the Chair of the Board of Trustees, and, where relevant, to the person complained about. This will be available for inspection.

47. If the Complaints Panel makes any recommendations regarding changes to school processes as a result of the investigation, the Headteacher will be responsible for reviewing these recommendations and implementing them where appropriate. Acceptance of recommendations will be at the Headteacher's discretion unless the investigation reveals processes that do not comply with statutory, Funding Agreement, or DfE/ESFA requirements when the Headteacher will be required to ensure compliance as soon as possible.

## **4. Responsibilities Under the Policy**

### **Board of Trustees**

The Board of Trustees is responsible for:

- Establishing the Panel Hearing for Stage 3 in appropriate cases; and
- Monitoring the level and nature of complaints and reviewing the outcomes and associated lessons to learn annually (and report to the Board of Trustees as appropriate or as required) or earlier if so determined by the Chair.

### **Chief Executive Officer**

The Chief Executive is responsible for:

- The effective implementation of this policy and procedures;
- Where a complaint is escalated to them at Stage 2, identifying who will consider the complaint;
- Advising Governors and Trustees about the composition of Panels for Stage 3;
- Reporting to the Board of Trustees about the number and nature of complaints, as well as actions taken in response and lessons learned; and
- Ensuring that the policy and procedure is monitored and reviewed, with recommendations for revision to the Board of Trustees as appropriate.

### **Local Governing Body**

48. The Local Governing Body is responsible for:

- Establishing the Panel Hearing for Stage 3; and
- Monitoring the level and nature of complaints and reviewing the outcomes and associated lessons to learn annually (and report to the Board of Trustees as appropriate or as required) or earlier if so determined by the Chair.

49. The Chair of the Local Governing Body is responsible for:

- Receiving complaints at Stage 3 of the complaints procedure;
- Nominating the individuals for the Panel Hearing in Stage 3 and ensuring that it includes one person who is independent from the management and running of the school; and
- Checking that the correct procedure is followed.

50. The Chair of the Panel at Stage 3 is responsible for ensuring that:

- The parties understand the procedure;
- The issues are addressed;
- Key findings of fact are established;
- Complainants are put at ease;
- The hearing is conducted as informally as possible;
- The panel is open-minded and acts independently;
- No member of the panel has a vested interest in the outcome, or has been involved in the issues previously;

- All parties have the chance to be heard;
- Any written material is seen by all parties; and
- Related Child Protection and Data Protection rules are observed and maintained.

## **5. Headteacher**

51. The Headteacher is responsible for:

- The overall internal management of the procedures;
- Identifying who will consider complaints at Stage 2 of the procedure, escalating the complaint to the Chief Executive where appropriate;
- Ensuring that the procedures are monitored and reviewed and reports made to the Local Governing Body and / or Board of Trustees as appropriate.

52. All staff are responsible for:

- Listening to any concerns brought to them by parents and students;
- Reassuring them that they will be dealt with as soon as possible by the appropriate member of staff;
- For informing the relevant staff of the concerns being raised: and
- Passing any complaints received from other people who are not parents or students to the Headteacher.

## **6. Complaints about the school to the Education and Skills Funding Agency (ESFA)**

53. Individuals are able to complain to the ESFA:

- Where there is undue delay or the academy did not comply with its own complaints procedure when considering a complaint;
- Where the academy is in breach of its funding agreement with the Secretary of State; and
- Where an academy has failed to comply with any other legal obligation (unless there is an organisation better placed to investigate the particular issue).

54. The ESFA usually expects complainants to have made their complaint directly to the school first in accordance with the schools' own policy.

55. The ESFA policy can be accessed here (16 July 2020):

<https://www.gov.uk/government/publications/complain-about-an-academy>

The policy outlines who the complainant should raise their complaint with depending upon the subject of the complaint.

## 7. Vexatious, Malicious and Abusive Complaints

56. Tithe Academy takes its responsibilities to investigate concerns and complaints seriously and will do so professionally.

57. Tithe Academy does not expect staff to tolerate unacceptable behaviour by complainants, which would include behaviour which is abusive, offensive or threatening.

58. Tithe Academy defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the school, hinder the ability to investigate their original complaint. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.

59. A vexatious complaint is one that is pursued, regardless of its merits, solely to harass, annoy or subdue somebody; something that is unreasonable, without foundation, frivolous, repetitive, burdensome or unwarranted.

A malicious complaint is one that is made with the intention of causing harm, for example:

- Deliberately seeking to defame a colleague or manager and raising a complaint with this intent;
- Through lying about an issue or incident in the knowledge that this will cause harm;
- Through knowingly basing a complaint on rumour and gossip with the intention of causing harm.

An unreasonably persistent and/or vexatious/malicious complaint/complainant may:

- Arise from a historic and irreversible decision or incident;
- Have insufficient or no grounds for their complaint, or refuse to specify the grounds for their complaint, and appear to be making the complaint only to annoy or for undeclared reasons;
- Refuse to co-operate with the complaints investigation process;
- Refuse to accept that issues are not within the power of the school or Tithe Academy to investigate, change or influence;
- Make what appear to be groundless complaints about the staff dealing with the complaint(s);
- Make an unreasonable number of contacts with the school or Tithe Academy, by any means, about the complaint;
- Make persistent and unreasonable demands or expectations of staff and/or the complaints process;
- Harass, abuse, or otherwise seek to harass or intimidate staff dealing with their complaint;
- Raise subsidiary or new issues during the investigation;
- Introduce trivial or irrelevant new information and expect this to be taken into account;
- Change the substance or basis of the complaint without reasonable justification;

- Deny statements he or she made at an earlier stage;
- Electronically record meetings and conversations without the prior knowledge and consent of the other person involved;
- Refuse to accept the outcome of the complaint process after its conclusion and/or denying that an adequate response has been given;
- Make the same complaint repeatedly, perhaps with minor differences, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure;
- Persistently approach the school or Tithe Academy (and potentially other parties such as the Local Authority) through different routes about the same issue; and
- Combine some or all of these features.

60. For the purpose of this policy, harassment is the unreasonable pursuit of such actions set out in the preceding paragraph in such a way that they:

- Appear to be targeted over a significant period of time on one or more members of school staff and/or
- Cause ongoing distress to individual member(s) of school staff and/or
- Have a significant adverse effect on the whole/parts of the school community and/or
- Are pursued in a manner which can be perceived as intimidating and oppressive by the recipient. This could include situations where persistent demands and criticisms, whilst not particularly taxing or serious when viewed in isolation, have a cumulative effect over time of undermining confidence, well-being and health.

61. In the case of persistent or vexatious complaints and/or harassment, the school will verbally inform the complainant that his/her behaviour is considered to be becoming unreasonable/unacceptable and, if it is not modified, action may be taken in accordance with this policy. This will be confirmed in writing.

62. If the complainant's behaviour is not modified the school will take some or all of the following actions as necessary, having regard to the nature of the complainant's behaviour and the effect of this on the school community:

- Inform the complainant in writing that his/her behaviour is now considered by the school to be unreasonable/unacceptable and, therefore, to fall under the terms of this Section 7;
- Inform the complainant that all meetings with a member of staff will be conducted with a second person present and that notes of meetings may be taken in the interests of all parties;
- Inform the complainant that, except in emergencies, all routine communication with the complainant to the school should be by letter only;
- In the case of physical, or verbal aggression warn the complainant about being banned from the school site; or proceed straight to a ban;
- Consider informing the police who may seek to take further action under anti-harassment / malicious communication legislation.

## 7. Appendices

### Appendix One: Complaint Form

## Tithe Academy: Complaint form

Please complete and return to the Headteacher who will acknowledge receipt and explain what action will be taken.

Your Name:	
Student's Name:	
Your relationship to the student:	
Address:	
Daytime phone number:	
Evening phone number:	
Mobile phone number:	
Please give details of your complaint:	
What action, if any, have you already taken to try and resolve the complaint? Who did you speak to and what was the response?	
What actions do you feel might resolve the problem at this stage?	
Are you attaching any paperwork? If so, please give details:	
Signature	
Date	

<b><i>School use only</i></b>	
<b>Date acknowledgement sent:</b>	
<b>Who sent acknowledgement:</b>	
<b>Signature</b>	
<b>Please complete the following, acknowledge the stages of the complaints procedure that have been followed and make any comments as necessary</b>	
<b>Stage 1 (complaint heard by staff)</b>	          <b>Date:</b> <b>Signature:</b>
<b>Stage 2 (complaint heard by senior member of staff)</b>	          <b>Date:</b> <b>Signature:</b>
<b>Stage 3 (Panel Hearing)</b>	          <b>Date:</b> <b>Signature:</b>

**All functions of the complaints procedure must adhere to the requirements of the Data Protection Act 1998 and the Freedom of Information Act 2000.**

**Please complete and return this form to the school office in a sealed envelope addressed to the Headteacher, Chair of Governors or Clerk to Governors (as appropriate)**