



ElmsBank

Complaints Procedures Policy



June 2020

Approved by the Trust Board on



Contents:

Statement of Intent

- 1 Legal Background
- 2 Complaints not covered by this procedure
- 3 Scope
- 4 Definitions
- 5 Complaints Procedure
- 6 Role of the ESFA
- 7 Complaints against the Headteacher, Trust Leadership, a Governor or a Governing Board, a Trustee or the Trust Board
- 8 Recording a Complaint
- 9 Managing unreasonable complaints
- 10 Complaints campaigns
- 11 Barring from the premises
- 12 Transferring Data
- 13 Availability of the Complaints Policy and Procedure
- 14 Reviewing the Policy and Procedure

Appendices

- Appendix 1: Complaints Procedure Form
- Appendix 2: Complaints Procedure during the Coronavirus (COVID19) Pandemic
- Appendix 3: Timescales for Complaints Received in Term Time

STATEMENT OF INTENT

Oak Learning Partnership Trust ('the Trust') aims to resolve all concerns and complaints in a timely manner. Complaints and concerns will be treated seriously and confidentially, whether raised formally or informally. Any person, including a member of the public, may make a complaint about the provision of facilities or services by the Trust. This policy outlines the procedure which the complainant and the Trust should follow.

Once a complaint has been made, it can be resolved or withdrawn at any stage.

In all stages of a complaint, a Headteacher may refer the matter to the Trust CEO or the Director of School Improvement.

In the case of any timescales changing during any stage of the complaints procedure, all parties involved will be informed of the changes in a timely manner.

The Trust's Complaints Policy and Procedure will:

- Be impartial and non-adversarial
- Facilitate a full and fair investigation by an independent person or panel, where necessary
- Respect confidentiality duties
- Address all the points at issue and provide an effective response and appropriate redress, where necessary
- Keep the complainant informed of the progress of the complaints process, adhering to the established timescales wherever possible
- Provide information to the Trust's senior management which can be considered in school improvement evaluation processes

Our schools will aim to resolve concerns through everyday communications as far as possible, in line with Stage 1 of this procedure. This policy outlines the procedure for bringing concerns and complaints to the attention of the Trust and its schools, as well as detailing the actions which the Trust and its schools must take in response. There are four stages within this policy:

Stage 1	Informal Concerns
Stage 2	Formal Complaint to Headteacher
Stage 3	Complaint to Chair of Local Governing Body
Stage 4	Complaint to an Independent Appeal Panel

1 Legal framework

This policy has due regard to statutory legislation, including, but not limited to, the following:

Education Act 2002

Freedom of Information Act 2000

Immigration Act 2016

Equality Act 2010

General Data Protection Regulation (GDPR)

The Data Protection Act 2018

The Education (Independent School Standards) Regulations 2014

This policy also has due regard to guidance including, but not limited to, the following:

DfE (2019) 'Best practice guidance for school complaints procedures 2019'

ESFA (2015) 'Creating an academy complaints procedure'

HM Government (2016) 'Code of Practice on the English language requirement for public sector workers'

This policy will be implemented in accordance with the following school policies:

Records Management Policy

Child Protection and Safeguarding Policy

Grievance Policy

Exclusion Policy

Whistleblowing Policy

2 Complaints not covered by this procedure

2.1 Complaints regarding the following topics should be directed to the LA:

- Statutory assessments of SEND
- School re-organisation proposals
- Admissions to schools

2.2 Complaints about child protection matters will be handled in line with the school's Child Protection and Safeguarding Policy and in accordance with relevant statutory guidance. Any child protection complaints should be directed to the LADO or the multi-agency safeguarding hub (MASH).

2.3 Complaints concerning admissions will be directed to the appropriate admissions authority.

2.4 Complaints regarding exclusions will be dealt with in accordance with procedure outlined in the Exclusion Policy.

2.5 The school has an internal whistleblowing procedure for all employees, including contractors and temporary staff outlined in the Whistleblowing Policy.

2.6 Volunteers who have concerns about the school or a member of staff should make their complaint in line with this policy. Volunteers may also be able to complain to the LA or DfE, depending on what the complaint is about.

2.7 Staff grievances and disciplinary procedures will be dealt with in line with the Grievance Policy.

- 2.8 This complaints procedure is not to be used when addressing any complaints made about services provided by a third party who may use the school premises or facilities. All complaints concerning this should be directed to the service provider.
- 2.9 If a complainant commences legal action against the school in relation to their complaint, the school will consider whether to suspend the complaints procedure, until those legal proceedings have concluded.

3 Scope

- 3.1 This policy relates to all schools and settings within Oak Learning Partnership Trust.
- 3.2 This policy does not cover complaints procedures relating to
Admissions
Statutory assessments of SEN
Safeguarding matters
Exclusion
Whistle-blowing
Staff grievances
The Trust has separate policies and procedures in place relating to these areas.

4 Definitions

4.1 DfE guidance explains the difference between a concern and a complaint:

- A concern is defined as ‘an expression of worry or doubt over an issue considered to be important for which reassurances are sought.
- A complaint is defined as ‘an expression of dissatisfaction however made, about actions taken or lack of action.’

4.2 For the purpose of this policy, “unreasonable complaints” include:

- Vexatious complaints:
Are obsessive, persistent, harassing, prolific, repetitious.
Insist upon pursuing unmeritorious complaints and/or unrealistic outcomes beyond all reason.
Insist upon pursuing meritorious complaints in an unreasonable manner.
Are designed to cause disruption or annoyance.
Demand for redress which lacks any serious purpose or value.
- Serial or persistent complaints:
Are duplicated, sent by the same complainant once the initial complaint has been closed.
Serial or persistent complaints will only be marked as ‘serial’ once the complainant has completed the complaints procedure. It is the complaint that will be marked as ‘serial’ meaning the complainant can complain about a separate issue if necessary.
- Duplicate complaints
For the purpose of this policy, “duplicate complaints” are identical complaints received from a complainant’s spouse, partner, grandparent or child. These complaints will not be addressed again, the individual making the second complaint will be informed that the complaint has been dealt with on a local level and if they are dissatisfied with the result, they can appeal to the DfE.
Any new details provided by a complainant’s spouse, partner, grandparent or child, will be investigated and dealt with in line with the complaints procedure.

5 Complaints Procedure

Stage 1 – Informal Concerns

- 5.1 Our hope is that a discussion with the appropriate member of staff would normally resolve any concerns. In many cases this member of staff is likely to be a child's teacher. If the teacher feels unable to resolve the matter alone then it may be necessary for him or her to consult with a more senior teacher (including an Assistant Headteacher, a Deputy Headteacher or the Headteacher).
- 5.2 Complaints are expected to be made as soon as possible after an incident arises to amend the issue in an appropriate timescale. The Trust upholds a three-month time limit in which a concern or complaint can be lodged regarding an incident. Concerns or complaints made outside this time limit will not be automatically refused and exceptions will be considered.
- 5.3 All Stage 1 Informal Concerns shall be considered, whether they are made in person, by telephone, in writing, or electronically via email.
- 5.4 If a complaint is made initially to a governor or Trustee, the complainant should be referred to the appropriate person. The governor/Trustee in question should not act alone on a complaint outside the procedure; if they do, they cannot be involved if the complaint is subject to a hearing at a later stage of the procedure.
- 5.5 Within 15 school days in term time, the complainant and the relevant member of staff should discuss the issue in a respectful and informal manner to seek a mutual resolution. At this stage, the complainant will be asked what they think might resolve the issue – any acknowledgement that the school could have handled the situation better is not an admission of unlawful or negligent action.
- 5.6 If an appropriate resolution cannot be sought at this informal level, or if the complainant is dissatisfied with the outcome following the initial discussions, the complainant may wish to proceed to the next level of the procedure (Stage 2).

Stage 2 – Formal Complaint to Headteacher

- 5.7 Stage 2 Formal Complaints should be made in writing to the Headteacher. A Complaints Form is provided by each school to assist with this. The complainant should set out details such as relevant dates and times, names of individuals concerned and of witnesses, and details of what they would feel would resolve the complaint. Copies of any relevant documents should also be provided.
- 5.8 The complaint must be acknowledged within 5 school days of receipt within term time, and a written response should be provided within 20 school days of the date of acknowledgement, during term time. The written response will include an explanation of how to escalate the complaint to Stage 3 (Complaint to Chair of Local Governing Body).
- 5.9 Where the situation is recognised as complex, and it is deemed to be unable to be resolved within this timescale, the Headteacher will contact the complainant to inform them of the revised target date via a written notification.

- 5.10 If the complainant is not satisfied with the outcome suggested, he or she may wish to progress to Stage 3.

Stage 3 – Complaint to Chair of Local Governing Body

- 5.11 The complainant should submit any complaint in respect of the Headteacher's investigation in writing to the Chair of Governors of the relevant school or setting. A complaints form is appended to this policy to assist with this. The written complaint should be sent to the Chair of Governors within 10 school days of the date of the Headteacher's written response provided under Stage 2.
- 5.12 The Chair of Governors will acknowledge receipt of the complaint within 5 school days in term time, and will then carry out an investigation and consider all available evidence.
- 5.13 The complainant and the headteacher will be informed of the outcome within 20 school days during term time of the date of the Chair of Governors' acknowledgement of receipt of the complaint. The complainant will be given details of how to escalate the complaint to Stage 4 (Complaint to an Independent Appeal Panel).

Stage 4 – Complaint to an Independent Appeal Panel

- 5.14 If the complainant is not satisfied with the outcome of Stage 3 of the process, then the complaint should be made in writing to the School Business Manager within 10 school days in term time of the date of the response from the Chair of Governors under Stage 3. The School Business Manager will act as the clerk to the Independent Appeal Panel.
- 5.15 Written acknowledgement of the complaint will be made within 5 school days of receipt during term time.
- 5.16 The School Business Manager will endeavour to convene an Independent Appeal Panel hearing as soon as possible to consider the matter, aiming for this to take place no later than 20 school days after the date of the acknowledgement of the complaint (if issued in term time). This will be dependent on the availability of panel members.
- 5.17 The Panel will consist of the Chair of the Board of Trustees and another Trustee who has not previously been involved in the complaint, or 2 Trustees who have not previously been involved in the complaint if the Chair is unavailable, together with one person independent of the management and running of the school which is the subject of the complaint. The process used for selecting an independent person will conform to any relevant guidance issued by the DfE.
- 5.18 Neither the school or setting nor the complainant should bring legal representation to the Panel hearing; however, there are occasions where legal representation will be necessary, for example where a school employee is a witness in a complaint, they may be entitled to bring union or legal representation.
- 5.19 The School Business Manager will seek to give a minimum of five days' notice to all parties attending the Panel hearing, including the complainant.

- 5.20 All documentation and written evidence must be received by the School Business Manager no later than 10 days prior to the hearing, and the School Business Manager must distribute the documentation and written evidence no later than 5 days prior to the hearing.
- 5.21 At the hearing, all participants will be given the opportunity to put their case across and discuss any issues. The Panel will consider issues raised in the original complaint and any issues which have been highlighted during the complaints procedure.
- 5.22 The hearing should allow for:
The complainant to be present and accompanied at the hearing if they wish.
The complainant to explain their complaint and the Headteacher to explain the reasons for their decision.
The complainant to question the Headteacher, and vice versa, about the complaint.
Any evidence, including witnesses who have been prior approved by the chair of the Panel, to be questioned.
Members of the Panel to question both the complainant and the Headteacher.
Final statements to be made by both parties involved.
- 5.23 The Panel can:
Dismiss or uphold the complaint, in whole or in part.
Decide on appropriate action to be taken.
Recommend changes that the school can make to prevent reoccurrence of the problem.
- 5.24 The complainant, and (where relevant) the person complained about will receive a written response explaining the panel's findings and recommendations within 15 school days during term time. The decision of the panel is final.
- 5.25 A copy of the panel's findings and recommendations will be available for inspection on the school premises by the proprietor and the headteacher.

6 Role of the Education and Skills Funding Agency

- 6.1 If a complainant has exhausted the Trust's complaints procedure, they will be advised that they can submit a complaint to the ESFA. The ESFA cannot review or overturn decisions about complaints made by the Trust. They can only investigate whether the Trust has considered the complaint properly. If the ESFA finds that the Trust did not consider the complaint appropriately it can request that the Trust reconsiders the complaint.
- 6.2 The ESFA will investigate complaints about
- Undue delay or non-compliance with the Trust's own complaints procedure
 - Allegations that the Trust has failed to comply with a duty imposed on it under its Funding Agreement with the Secretary of State
 - Allegations that the Trust has failed to comply with any other legal obligations placed on it, except in cases where there is another body or organisation that is, in the view of the ESFA, better placed to consider and if necessary, take further action in connection with the issue including but not limited to, a Court of Law or other Tribunal of competent jurisdiction, local authorities or other regulatory bodies.
- 6.3 The ESFA will not usually investigate complaints more than 12 months after a Trust's decision unless the complainant has good reason for the delay in making the complaint.

- 6.4 Information about complaining to the ESFA, together with a link to the ESFA on line enquiry form which is used to make complaints, can be found on the Gov.uk website at the following address: <https://www.gov.uk/government/publications/complain-about-an-academy/complain-about-an-academy>

7 Complaints against the Headteacher, Trust leadership, a Governor or Governing Body, a Trustee or the Trust Board

- 7.1 Complaints against any of the above should be made in writing to the clerk of the Trust Board. A complaints procedure form is appended to assist with this.
- 7.2 If the complaint is about the headteacher, a member of the Trust Leadership Team or one member of a governing body, a suitably-skilled and impartial trustee will carry out the steps at Stage 1 and, if necessary, Stage 2. If the complainant is still not satisfied then he or she can progress to Stage 3 if the complaint is against the headteacher, or to Stage 4 if the complaint is against a member of the Trust Leadership Team or one member of a local governing board.
- 7.3 If the complaint is against the Chair or Vice Chair of the Trustees, or the Trust Board as a whole, then one of the Trust's Members will take advice from the National Governors Association. This may mean that an independent investigator or a committee of independent Trustees sourced from local Trusts or the Local Authority may carry out the steps in Stage 3 or Stage 4.

8 Recording a complaint

- 8.1 A written record will be kept of all complaints that were resolved at the relevant formal stage of the Complaints Procedure. Records will contain details of whether the complaint was resolved at Stage 2 or Stage 3, or whether it proceeded to Stage 4. The action taken by the individual school or the Trust will also be recorded.
- 8.2 Where there are communication difficulties or disabilities, the Trust may provide recording devices to ensure the complainant is able to access and review the discussions at a later point.
- 8.3 Recording devices will not be used without the prior consent of all parties.
- 8.4 The Trust will not accept, as evidence, any recordings that were obtained covertly and without the informed consent of all parties being recorded.
- 8.5 Complainants have a right to access copies of the records under the GDPR and the Freedom of Information Act 2000.
- 8.6 The Trust will hold all records of complaints centrally. Correspondence, statements and records relating to individual complaints are kept confidential except where the Secretary of State or a body conducting an inspection requests to access them.

9 Managing Unreasonable Complaints

- 9.1 The school is committed to dealing with all complaints fairly and impartially, and to providing a high-quality service to those who complain. We will not normally limit the contact

complainants have with the school; however, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

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

- Refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance.
- Refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refuses to accept that certain issues are not within the scope of a complaints procedure.
- Insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales.
- Makes unjustified complaints about staff who are trying to deal with the issues and seeks to have them replaced.
- Changes the basis of the complaint as the investigation proceeds.
- Repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed).
- Refuses to accept the findings of the investigation into that complaint where the school's complaints procedure has been fully and properly implemented and completed including referral to the DfE.
- Seeks an unrealistic outcome.
- Makes excessive demands on school time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with.

9.3 A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:

- Maliciously
- Aggressively
- Using threats, intimidation or violence
- Using abusive, offensive or discriminatory language
- Knowing it to be false
- Using falsified information
- By publishing unacceptable information in a variety of media such as in social media websites and newspapers

9.4 Complainants should limit the numbers of communications with a school while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached.

9.5 Whenever possible, the headteacher or chair of governors will discuss any concerns with the complainant informally before applying an 'unreasonable' marking. If the behaviour continues, the headteacher will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively contact the

school causing a significant level of disruption, the school may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after six months.

- 9.6 In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police informed. This may include banning an individual from the premises.

10 Complaints campaigns

- 10.1 For the purposes of this policy, “complaints campaigns” are where the school receives large volumes of complaints that are all based on the same subject.
- 10.2 Where the school becomes the subject of a complaints campaign from complainants who are not connected with the school, a standard, single response will be published on the school’s website.
- 10.3 If the school receives a large number of complaints about the same subject from complainants who are connected to the school, e.g. parents, each complainant will receive an individual response.
- 10.4 If complainants remain dissatisfied with the school’s response, they will be directed to the DfE.

11 Barring from the premises

- 11.1 School premises are private property and therefore any individual may be barred from entering the premises.
- 11.2 If an individual’s behaviour is cause for concern, the headteacher will ask the individual to leave the premises.
- 11.3 If a Headteacher decides to bar an individual from entering the premises, he or she will notify the parties involved in writing, explaining that their implied licence for access to the premises has been temporarily revoked and why, subject to any representations that the individual may wish to make.
- 11.4 The individual involved will be given the opportunity to formally express their views regarding the decision to bar them. The decision to bar may be reviewed by the chair of governors or a committee of governors, taking into account any discussions following the incident(s) leading up to the barring.
- 11.5 If the decision is made to continue the bar, the individual will be contacted in writing, informing them of how long the bar will be in place. They will also be informed of when the decision will be reviewed.

12 Transferring data

- 12.1 When a pupil changes school, the pupil’s educational record will be transferred to the new school and no copies will be kept. The school will hold records of complaints separate to

pupil records while a complaint is ongoing, so that access to these records can be maintained.

- 12.2 Information that the school retains relating to a complaint will be stored securely and in line with the school's Records Management Policy.

13 Availability of the Complaints Policy and Procedure

A copy of this policy will be made available on request. It will also be published on the Trust website and the website of each school or setting.

14 Reviewing the procedure

The complaints procedure will be reviewed annually taking into account the latest guidance issued by the DfE. The monitoring and reviewing of complaints will be used to help evaluate the school's performance wherever possible.

Appendix 1: Complaints Procedure Form

Name:	Address:
Daytime telephone number:	
Evening telephone number:	
Email:	Postcode:
Which school/setting does your complaint concern?	
<p>Which stage in our Complaints Procedure have you now reached? (Stage 1, Stage 2, Stage 3 or Stage 4?)</p> <p>For Stage 2, Stage 3 and Stage 4 complaints, please explain what steps you have taken in previous Stages, and what actions the school taken in response.</p>	
What is your complaint concerning, and what action would you like the Trust to take?	
Signed:	Date:

Appendix 2: Complaints Procedure during the Coronavirus (COVID19) Pandemic

Please note: In line with current government guidance, the Trust is not expected to handle new or existing concerns while it is open to a limited number of pupils due to the coronavirus pandemic; however, the Trust maintains open communication channels for complainants to contact the school with a concern.

Statement of intent

We understand the necessity to adapt our complaints procedure during the schools' partial closure and to ensure members of our schools' communities can continue to voice any concerns they may have.

This appendix outlines how the Trust manages concerns and complaints during the coronavirus pandemic, in line with the government's guidance and this policy. The information in this section is under constant review and kept updated to reflect any changes to national or local guidance.

It is important to note, however, that the DfE **does not** expect the Trust or its schools to address new or existing concerns or complaints during the period of partial closure.

1. Key definitions

1.1. For the purpose of this policy, the following definitions are used:

- **Children of key workers:** children of parents who work in the following industries:
 - Health and social care, e.g. doctors and nurses
 - Education and childcare, e.g. teachers and DSLs
 - Local and national government, e.g. administrative occupations
 - Food and essential goods retail, e.g. supermarket workers and grocers
 - Public safety and national security, e.g. police and Ministry of Defence workers
 - Transport, e.g. freight transport workers and train drivers
 - Utilities, communication and financial services, e.g. bankers, oil workers, and telecommunications (999 and 111 critical services)
- **Vulnerable children:** children who have a social worker and children with EHC plans. Those who have a social worker include children who have a child protection plan and those who are looked after by the LA. A child may also be deemed as vulnerable if they have been assessed as being in need, are a young carer, or otherwise meet the definition in Section 17 of the Children Act 1989.
- **Social distancing:** measures put in place in line with government advice to reduce social interaction between people. This aims to reduce the transmission of coronavirus by preventing gatherings occurring in public spaces, such as schools, where possible.

2. Making a complaint

- 2.1. During the period of school closure caused by the Covid19 pandemic, all concerns should be addressed directly to the Trust by email to enquiries@oaklp.co.uk.
- 2.2. Concerns are not restricted to the parents of pupils. The Trust considers all concerns.
- 2.3. The normal complaints procedure will resume once schools fully reopen; at this point, the Trust will direct any concerns raised during partial closure to the relevant school to be dealt with under the standard complaints procedure.

3. Concerns with regards to school closures

- 3.1. Concerns about the schools' and Trust closure should be directed to the local authority or the Department for Education.

4. Recording a concern

- 4.1. A written record is kept of any concern made, where deemed necessary, and includes the main issues raised.
- 4.2. Any record of concerns made are held in line with the Records Management Policy.

5. Monitoring and review

- 5.1. This appendix will be updated in line with any changes and guidance on both national and local levels where appropriate.
- 5.2. This appendix is considered redundant once the Trust and its schools reopen fully, at which point the Trust and its schools resume their regular complaints procedures outlined in this policy.

Appendix 3: Timescales for Complaints Received in Term Time

STAGE OF COMPLAINT	COMPLAINANT	SCHOOL	CHAIR OF LOCAL GOVERNING BODY	SCHOOL BUSINESS MANAGER
STAGE 1 Informal Concern	Lodge with member of staff concerned within 3 months of the incident	Discuss within 15 days		
STAGE 2 Formal Complaint to Headteacher	Lodge in writing to Headteacher within 3 months of incident	Acknowledge within 5 school days of receipt		
		Provide written response within 20 school days of date of acknowledgement,		
STAGE 3 Complaint to Chair of Local Governing Body	Lodge in writing to Chair of the Local Governing Body within 10 school days of the date of the Headteacher's written response provided under Stage 2		Acknowledge receipt within 5 school days and carry out investigation	
			Send outcome of investigation to complainant and headteacher within 20 school days of date of acknowledgement	
STAGE 4 Complaint to an Independent Appeal Panel	Lodge in writing to School Business Manager within 10 school days of date of response from Chair provided under Stage 3			Acknowledge receipt within 5 school days.
				Convene an Independent Appeal Panel within 20 school days of date of acknowledgement, giving 5 days notice of hearing
	Supply School Business Manager with documents and written evidence no later than 10 days before the hearing			Distribute documents and written evidence no later than 5 days before the hearing
				Send written response explaining outcome of the Independent Appeal Panel hearing within 15 school days

Complaints to ESFA	Complainant must lodge complaint within 12 months of the date of the Independent Appeal Panel's decision.
---------------------------	-----------------------------------------------------------------------------------------------------------