



**Elms Bank**  
School & College

Excellence for All

# SEND Provision Complaints Policy

**Author:** Orienne Langley-Sadler  
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Part of the

**Oak**   
Learning Partnership

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## STATEMENT OF INTENT

Oak Learning Partnership Trust ('the Trust') aims to resolve all concerns and complaints raised by parents/carers in relation to their children's SEND provision in a timely manner. Complaints and concerns will be treated seriously and confidentially, whether raised formally or informally. This policy outlines the procedure which the complainant and the Trust should follow. This procedure applies to complaints made by parents or carers in relation to their children's SEND provision. Other complaints are covered under the Trust's Complaints Procedures Policy which should be read in conjunction with the SEND Complaints Procedures Policy.

Once a complaint has been made, it can be resolved or withdrawn at any stage.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 or the local authority SEND Team.

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.

We will consider complaints received outside of term time to have been received on the first day of term after the holiday period.

The Trust's SEND 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 three stages within this policy:

- |                |   |
|----------------|---|
| <b>Stage 1</b> | <b>Informal Concerns</b>                |
| <b>Stage 2</b> | <b>Formal Complaint to Headteacher</b>  |
| <b>Stage 3</b> | <b>Complaint to the Local Authority</b> |



## **2 Concerns and Complaints not covered by this procedure**

- 2.1 Complaints regarding concerns about your child's SEND intervention or provision within the school should follow the procedures set out in this policy. However, complaints regarding the content of an EHCP plan or the educational establishment named on your child's EHCP needs to be addressed to the SEND Team within the local authority.
- 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 Complaints about staff conduct will be dealt with under the school's internal disciplinary procedures, if appropriate. Complainants will not be informed of any disciplinary actions taken towards a staff member as a result of a complaint. However, the complainant will be notified that the matter is being addressed.
- 2.9 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.
- 2.10 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. It is not limited to complaints raised by parents/carers in relation to their children.
- 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 or the SENCO. If the teacher or SENCO 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 only be considered if exceptional circumstances apply.
- 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 concern is raised 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 concern is subject to a hearing at a later stage of the procedure.
- 5.5 Within 7 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. It will be decided whether the support or advice of other agencies needs to be commissioned. These agencies may be internal or external agencies. 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 will be advised how 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 The headteacher, SENCO and where appropriate, the Multi Disciplinary Team may meet with the complainant as soon as possible after the complaint has been received.
- 5.11 If the complainant is not satisfied with the outcome suggested, he or she may wish to progress to Stage 3 (complaint to the local authority SEND team).

## **Stage 3 – Complaint to the Local Authority SEND team**

- 5.11 The complainant should submit any complaint in respect of the Headteacher's interventions in writing to the Local Authority Send team. A complaints form is appended to this policy to assist with this. The written complaint should be sent to the Local Authority SEND team within 10 school days of the date of the Headteacher's written response provided under Stage 2.
- 5.12 The Local Authority SEND team will acknowledge receipt of the complaint and will take all steps it deems necessary to investigate and resolve the complaint.

## **6 Handling Complaints Fairly**

6.1 The Trust will treat complainants fairly and offer them a chance to state their case either in person or in writing, at each stage of the procedure.

6.2 If the Complainant rejects the offer of 3 proposed dates without good reason, the Trust will

- Convene meetings in the claimants' absence
- Reach a conclusion in the interests of drawing the complaint to a close

## **7 Role of the Education and Skills Funding Agency**

7.1 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.

7.2 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.

7.3 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.

7.4 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>

## **8 Complaints against the Headteacher, Trust leadership, a QEB member a Trustee or the Trust Board**

8.1 Complaints against any of the above should be made in writing to the local authority.

## **9 Recording a complaint**

9.1 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. The action taken by the individual school or the Trust will also be recorded. The progress of the complaint and the final outcome will be recorded.

9.2 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.

9.3 Recording devices will not be used without the prior consent of all parties.

9.4 The Trust will not accept, as evidence, any recordings that were obtained covertly and without the informed consent of all parties being recorded.

9.5 Complainants have a right to access copies of the records under the GDPR and the Freedom of Information Act 2000.

9.6 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.

## **10 Managing Unreasonable Complaints**

10.1 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.

10.2 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.

10.3 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

- 10.4 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.
- 10.5 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.
- 10.6 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.

## **11 Complaints campaigns**

- 11.1 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.
- 11.2 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.
- 11.3 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.
- 11.4 If complainants remain dissatisfied with the school's response, they will be directed to the DfE.

## **12 Anonymous complaints**

We will not normally investigate anonymous complaints. However, the headteacher/ chair of trustees/ chair of QEB, if appropriate, will determine whether the complaint warrants an investigation.

## **13 Barring from the premises**

- 12.1 School premises are private property and therefore any individual may be barred from entering the premises.

- 12.2 If an individual's behaviour is cause for concern, the headteacher will ask the individual to leave the premises.
- 12.3 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.
- 12.4 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.
- 12.5 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.

### **13 Transferring data**

- 13.1 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.
- 13.2 Information that the school retains relating to a complaint will be stored securely and in line with the school's Records Management Policy.

### **14 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.

### **15 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: SEND Complaints Procedure Form**

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

## Appendix 2: Timescales for SEND Complaints Received in Term Time

STAGE OF COMPLAINT	COMPLAINANT	SCHOOL
<b>STAGE 1 Informal Concern</b>	Lodge with member of staff concerned within <b>3 months</b> of the incident	Discuss within <b>15 days</b>
<b>STAGE 2 Formal Complaint to Headteacher</b>	Lodge in writing to Headteacher within <b>3 months</b> of incident	Acknowledge within <b>5 school days</b> of receipt
		Provide written response within <b>20 school days</b> of date of acknowledgement,
<b>STAGE 3 Complaint to local authority SEND team</b>	Lodge in writing to local authority within <b>10 school days</b> of the date of the Headteacher's written response provided under Stage 2	

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