



# SIR THOMAS RICH'S

## Complaints Procedure

This Policy was drawn up in accordance with the Education Act 2002, DfE School Complaints Procedure Toolkit 2011, Gloucestershire County Council Guidance and Model Procedure for Handling Complaints in Schools 2011 and the Education (Independent School Standards (England) Regulations 2014).

**Date reviewed:** July 2017

**Status:** Statutory

**Responsibility:** This policy will be reviewed by the School's Senior Management Team regularly. The Governors' Personnel Committee has responsibility for approving the policy and monitoring its implementation.

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## 1. Introduction

The School endeavours to provide the best education possible for all of its pupils in an open and transparent environment. Where concerns are raised the School intends for these to be dealt with fairly, openly, promptly and without Prejudice. In order to do so, the following procedure explains what you should do if you have any concerns about the school.

Sometimes, when concerns are specific, there are alternative and more appropriate policies and procedures for dealing with them. Section 4 below summarises these.

## 2. Avoiding complaints

Complaints can take many forms but in all cases the School's general policy is one of pre-emption or early action. Parents are encouraged to bring forward any concerns at an early stage as experience shows that by so doing misunderstandings (by far the main cause of complaints) are soon cleared up.

## 3. The School's complaint procedure

*This procedure will be used for complaints from parents and also from people who are not parents of attending pupils.*

### Timeframes

The School will endeavour to abide by timeframes stated under each stage but acknowledges that in some circumstances, this is not always possible due to the complexity of information needed to review a complaint or difficulties regarding individual's availability to deal with the complaint, for example. If it becomes apparent that it is not possible to complete any stage of the complaints procedure within a given timeframe, the individual responsible for handling the complaint will contact the complainant as soon as possible and come to an agreed timeframe that works for all parties involved.

The School reserves the right not to investigate complaints that have been made six months after the subject of the complaint took place, except in exceptional circumstances. 'Exceptional circumstances' is normally where new evidence has come to light, where the complaint is of an especially serious matter or where there is reasonable justification for why the complainant has been unable to raise the complaint before this time. The Headmaster will review the situation and decide whether or not to enact the complaints procedure, informing the Chair of Governors of the decision.

### **Step 1: Informal Stage**

It is normally appropriate to communicate directly with the member of staff concerned. This can be done by letter, e-mail, telephone or in person by appointment. Most parental concerns are dealt with informally in discussion with the pupil's subject teacher or form tutor. Should this prove unsuccessful, the complainant may speak to the relevant Head of Year who may, in turn, involve a senior member of staff. In all instances the complaint will be heard with an open mind and a view to establishing the facts and finding a solution. It is the School's experience that almost all complaints are resolved by this stage.

### **Step 2: Headmaster**

If the concern is not resolved at the informal stage the complaint must be put **in writing** and passed to the Headmaster. Details which will help the investigation such as dates and times of events, potential witnesses and any documentary evidence should be included. It is also helpful to include a statement about what might reasonably contribute to a resolution of the problem. A school complaint form is available for guidance.

The first stage of the formal process is for an Investigating Officer to be appointed (either by the Headmaster or, if the process concerns the Headmaster, by the Chair of Governors) to investigate and respond to the complaint. The Investigating Officer will usually be a member of the SMT (or a Governor, if the matter concerns the Headmaster). In certain circumstances, the School may appoint an external investigator.

The depth of an investigation will depend on the nature of the complaint and will vary from case to case. It may involve interviewing and taking statements from the subject of the complaint and any witnesses, and/or reviewing relevant documents. Investigative interviews are solely for the purpose of fact-finding; no decision on the outcome of the complaint will be taken until all relevant information has been obtained.

The Headmaster, Chair of Governors and/or Investigating Officer may invite the complainant to a meeting. The complainant is entitled to bring a friend. It is possible that the complaint will be resolved at this meeting. In any case a reply **in writing** will be received within **5 school days of the school receiving the formal complaint**.

If the complaint is about the Headmaster it should be put in writing to the Chairman of Governors. Full details, as outlined above, should be provided. An acknowledgement will be sent **within 5 school days** and a pledge to investigate the complaint. A panel of at least 3 governors will be selected to hear the complaint and the procedure of the "Complaints Appeal Panel" followed.

### **Step 3: The Governors' 'Complaints Appeal Panel' CAP**

If the complaint is not satisfactorily resolved the complainant may appeal to the Board of Governors. The complainant needs to write formally to the Chairman of Governors, giving details of the complaint. Upon receipt of the letter the School Governor, will send **within 5 school days** an acknowledgement and commitment to investigate the complaint. The Chairman, or a nominated governor, will then convene a 'Complaints Appeal Panel' (CAP).

### **The CAP procedure**

- The CAP will consist of at least three people not directly involved in the matters detailed in the complaint. One panel member will be independent of the management and running of the School.
- The Panel can choose its own Chair, set out its terms of reference and may draw up its own procedures which will accommodate the nature of the complaint being investigated.
- Where the complaint involves a pupil, his/her presence may be required.

- A parent must be allowed to attend a panel hearing and be accompanied if he/she wishes.
- Children will only be interviewed as witnesses when the nature of the complaint is sufficiently serious to warrant it and adult witnesses are not available.
- In all cases a non-adversarial approach is preferred. It is important that the appeal hearing is independent, impartial and seen to be so. Should a complaint reach this stage, it is likely to be contentious. It is, therefore, important that the process by which Governors consider complaints is robust, transparent and understood by all sides.

The meeting will usually take place **within 10 school days** of receipt of the request.

The panel can:

- dismiss the complaint in whole or in part;
- uphold the complaint in whole or in part;
- decide on the appropriate action to be taken to resolve the complaint;
- recommend changes to the school's systems or procedures to ensure that problems of a similar nature do not recur

### **The outcome of the panel meeting**

The Chair of the Panel will ensure that the complainant is notified of the panel's findings and recommendations **in writing within 5 school days**. The letter will be sent by post, electronically or otherwise given to the complainant and where relevant the person complained about. The letter will explain if there are any further possibilities to appeal. The letter will be available for inspection on the school premises by the Governing Body and Headmaster.

### **Unresolved Complaints**

If the Governing Body cannot resolve a complaint, it may be referred to the EFA (Education Funding Agency). The EFA will investigate complaints where a Governing Body has acted unreasonably or illegally in coming to their decision. They will not overturn the decision of the Governing Body but can recommend the complaint is looked at again.

If a complainant tries to re-open an issue which has been considered at every stage of the procedure, the Chairman of Governors may inform him/her in writing that the procedure has been exhausted and that the matter is now closed. .

### **Unreasonable Complaints**

Where a complainant raises an issue that has already been dealt with via the School's complaints procedure, and that procedure has been exhausted, the School will not reinvestigate the complaint except in exceptional circumstances, for example where new evidence has come to light.

If a complainant persists in raising the same issue, the Chair of Governors will write to them explaining that the matter has been dealt with fully in line with the School complaints procedure, and therefore the case is now closed. The complainant will be provided with the contact details of the Department for Education if they wish to take the matter further.

Unreasonable complaints include the following scenarios:

- The complainant refuses to co-operate with the School's relevant procedures.
- The complainant changes the basis of the complaint as the complaint progresses.
- The complainant seeks an unrealistic outcome
- Excessive demands are made on the time of staff and school governors and it is clearly intended to aggravate.
- The complainant acts in a way that is abusive or offensive.

A written record of all complaints will be kept. This will record details of whether complaints are resolved at the early stage or proceed to a panel hearing and the action taken by the School as a result of those complaints, regardless of whether they are upheld. Correspondence, statements and records relating to individual complaints will be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them. The School will keep any personal information relating to a complaint in a secure manner for a period of 6 years.

#### **Help in making a complaint is available from The Advisory Centre for Education (ACE)**

[www.ace-ed.org.uk](http://www.ace-ed.org.uk).

Tel: 020 8407 5142

#### **4. Complaints for which specific procedures are required:**

- **Freedom of Information**

Whenever the School withholds information, it will inform the applicant of his/her right to complain to the School about the decision. Any complaint should first be made to the Freedom of Information Officer, currently Mr Dempsey, who will endeavour to resolve the matter informally. Should the requester wish to pursue the matter, he/she may make a formal complaint in writing to the Headmaster. The Headmaster, or his Deputy in his absence, will respond within 5 days. If the requester is still dissatisfied, the School will advise of their right of appeal to the ICO, the Information Commissioner's Office. <https://ico.org.uk>. Helpline: 0303 1231113 or 01625 545745. The ICO has the power to issue legally binding decision notices. If the ICO overturns the School's decision to withhold information, this information will be supplied within 35 calendar days of the date of the notice. However, both the School and the requester have the right to appeal to the First Tier Tribunal within 28 days. The Tribunal can overturn the Commissioner's decision if it was wrong in law or if the Commissioner exercised his discretion wrongly. It will then issue a substitute decision notice.

Appeals may be by oral hearing where witnesses give evidence in person, or if the evidence is presented entirely in writing, the appeal will be decided on the basis of those documents.

- **Data Protection**

A complaint by an individual about the way in which the School handles data protection should be directed to the ICO. <https://ico.org.uk>. Helpline: 0303 1231113 or 01625 545745. If it considers the complaint legitimate, it may ask the School to take steps to comply with the DPA or serve an enforcement notice.

The requester may apply for a court order compelling the School to comply. It is a matter for the courts to decide whether to make such an order.

If an individual suffers damage because the school has breached the DPA he/she is entitled to compensation from the School. This can only be enforced through the courts.

- **Child Protection**

For any complaint involving an allegation of child abuse see the STRS Child Protection and Safeguarding Children Policy.

- **Complaints against failure to assess a child's special educational needs and disabilities**

If the complaint is about the School's responsibilities at School Action or School Action Plus stages, the Governing Body should deal with the complaint. If the complaint concerns statutory assessment, the parent should contact the EFA (see SEND Policy).

- **Complaints about non-availability of a school place**  
If a place at Sir Thomas Rich's is not available and parents wish to appeal, see STRS Admissions Policy.
- **Complaints against staff**  
See STRS Conduct Procedure and Guidance and STRS Conduct Procedure Appendix.
- **Confidential complaints by staff ("Whistle Blowing")**  
See the School's Whistle Blowing Policy.

#### **4. Key Points for Governors**

- No governor may sit on the Panel if they have had a prior involvement in the complaint or in the circumstances surrounding it. In deciding the make-up of the Panel, Governors need to ensure that it is a cross-section of the categories of Governor and sensitive to any issues of race, gender and religious affiliation.
- The aim of the hearing, which needs to be held in private, will always be to solve the complaint and achieve reconciliation between the school and the complainant. However, it has to be recognised that the complainant might not be satisfied with the outcome if the hearing does not find in their favour. It may only be possible to establish the facts and make recommendations which should satisfy the complainant that his or her complaint has been taken seriously.
- An effective Panel will acknowledge that many complainants feel nervous and inhibited in a formal setting. Parents often feel emotional when discussing an issue that affects their child. The Panel's Chair will ensure that the proceedings are as welcoming as possible. The layout of the room will set the tone and care is needed to ensure the setting is informal and not adversarial.
- Extra care needs to be taken when the complainant is a child. Careful consideration of the atmosphere and proceedings will ensure that the child does not feel intimidated. The panel needs to be aware of the views of the child and give them equal consideration to those of adults. Where the child's parent is the complainant, it would be helpful to give the parent the opportunity to say which parts of the hearing, if any, the child needs to attend.
- The Governors sitting on the panel need to be aware of the full complaints procedure.

## **Specific roles and responsibilities within a CAP**

### **The role of a Clerk**

The Government strongly recommends that any Panel of Governors considering complaints be clerked. The Clerk would be the contact point for the complainant and be required to:

- set the date, time and venue of the hearing, ensuring that the dates are convenient to all parties and that the venue and proceedings are accessible;
- collate any written material and send it to the parties in advance of the hearing;
- meet and welcome the parties as they arrive at the hearing;
- record the proceedings;
- notify all parties of the panel's decision.

### **The role of the Chair of Governors or Nominated Governor**

The nominated governor role:

- check that the correct procedure has been followed;
- if a hearing is appropriate, notify the clerk to arrange the panel.

### **The role of the Chair of the Panel**

The Chair of the Panel has a key role, ensuring that:

- the remit of the panel is explained to the parties and each party has the opportunity of putting their case without undue interruption;
- the issues are addressed;
- key findings of fact are made known;
- parents and others who may not be used to speaking at such a hearing are put at ease;
- the hearing is conducted in an informal manner with each party treating the other with respect and courtesy;
- the panel is open minded and acting independently;
- no member of the panel has a vested interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure;
- each side is given the opportunity to state their case and ask questions;
- written material is seen by all parties. If a new issue arises it would be useful to give all parties the opportunity to consider and comment on it.





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## School Complaints Procedure

What actions do you feel might resolve the problem at this stage?

Are you attaching any paperwork? If so, please give details.

Signature:

Date:

### FOR OFFICIAL USE

Date acknowledgement sent:

By who:

Complaint referred to:

Date: