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Complaints procedures for school governing bodies in Wales



Guidance

Welsh Government circular no: 011/2012

Date of issue: October 2012

Complaints procedures for school governing bodies in Wales

Audience	Governing bodies and headteachers of all maintained schools in Wales, local authorities, diocesan authorities, Governors Wales and the Children's Commissioner for Wales.
Overview	<p>This guidance has been compiled using the combined experience of the Welsh Government, local authorities, Governors Wales and the Children's Commissioner for Wales with regard to how governing bodies handle complaints. It has also received valuable input from the Public Services Ombudsman for Wales (PSOW).</p> <p>It provides guidance for school governing bodies about establishing and publicising a procedure for dealing with complaints about the school, or about any facilities or services the governing body provides for the benefit of pupils, their families, or people who live or work in the school locality. Complaints may come from parents/carers, pupils, members of staff, members of the local community, governors, or any other person with an interest in the school.</p> <p>This guidance does not apply to complaints for which other statutory procedures exist outside of sections 27 and 29 of the Education Act 2002.</p> <p>This guidance document includes a model procedure for handling complaints. Although this guidance does not compel a governing body to adopt the model procedure, governing bodies are advised to do so. This guidance document also includes model leaflets that schools can use to make pupils aware of how to voice concerns.</p>
Action required	Governing bodies are required by law to establish a complaints procedure. It is recommended that governing bodies review their complaints procedures in the light of this new guidance, which replaces previous guidance. Governing bodies may put in place a complaints procedure of their choice but it is recommended that they adopt the model complaint procedure in Annex 1.

Further information

Governing bodies should seek advice about complaints procedures and complaint handling from their local authority or Governors Wales. The Welsh Government does not provide advice about individual cases. General enquiries about this guidance may, however, be addressed to:

School Governance and Organisation Branch
Schools Management and Effectiveness Division
Department for Education and Skills
Welsh Government
Cathays Park
Cardiff CF10 3NQ

Tel: 029 2082 6051

Fax: 029 2082 6109

e-mail: SMED2@wales.gsi.gov.uk

Additional copies

This guidance can be accessed on the Welsh Government's website at www.wales.gov.uk/educationandskills or from the Governors Wales website at www.governorswales.org.uk

This document replaces:

School Governing Bodies Complaints Procedures National Assembly for Wales Circular No: 03/2004 (2004)

Guidance for School Governing Bodies on Procedures for Complaints Involving Pupils National Assembly for Wales Circular No: 39/2006 (2006)

Related documents

Education Act 2002

Procedures for Whistleblowing in Schools and Model Policy Welsh Assembly Government Circular No: 036/2007 (2007)

School Governors' Guide to the Law

www.wales.gov.uk/topics/educationandskills/schoolshome/schoolfundingandplanning/schoolgov/schoolgovguide/?lang=en

Staff Disciplinary Procedures in Schools Welsh Assembly Government Circular No: 45/2004

Providing Effective Advocacy Services for Children and Young People Making a Representation or Complaint under the Children Act 1989 (National Assembly for Wales, 2004)

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Summary

Section 29 of the Education Act 2002 requires the governing bodies of all maintained schools in Wales to establish procedures for dealing with complaints and to publicise such procedures.

This guidance provides governing bodies of maintained schools in Wales with guidance in relation to establishing procedures for dealing with complaints and publicising such procedures. It also offers additional guidance on complaints, and includes a model complaints procedure which it is recommended that governing bodies adopt and use. The model complaints procedure is based on the experience of the Welsh Government, local authority governor support officers, Governors Wales and the Children's Commissioner for Wales, and has had input from the PSOW with regard to the PSOW's own recent *Model Concerns and Complaints Policy and Guidance*.

A complaints procedure is a way of ensuring that anyone with an interest in a school can raise a concern, with the confidence that it will be considered properly and heard and, if upheld, that the matter will be addressed appropriately and without delay.

It is important that governing bodies handle complaints well. Evidence suggests that too often this is not the case. As a result complainants are dissatisfied, feeling that their concerns are not taken seriously or are not resolved. This undermines trust in governing bodies and confidence in schools being well run. Having a good complaints procedure, engaging willingly with people making complaints, and considering them promptly without bias or prejudice, is what well-governed schools do. Well-governed schools are typically effective schools that deliver good education and attain high standards.

The Welsh Government is committed to the principles of the UN Convention on the Rights of the Child (UNCRC) as the basis for its dealings with children and young people. A core aim is that all children and young people should be listened to and treated with respect. This is pertinent for complaints procedures and complaint handling.

We advise governing bodies to consider their complaints procedures carefully against this guidance and to use the model procedure in Annex 1. If a governing body is challenged about its complaints procedure, it will need to demonstrate that it had good reasons

for its actions and for not following this guidance in relation to establishing procedures to deal with complaints and publicising such procedures.

This guidance is not a substitute for legal advice. Where governors require advice about the law they should seek it from the local authority, Governors Wales (which has a helpline¹) or a solicitor.

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¹ Governors Wales provides impartial advice to governors by
e-mail: helpline@governorswales.org.uk or telephone: 0845 60 20 100.

1. Introduction

About this guidance

1.1 **This guidance is for governing bodies. It is not written for complainants**, but the model complaints procedure at Annex 1 is written in a style suitable to give it to complainants. Annex 2 includes leaflets which can be given to school pupils. **It is recommended that governing bodies adopt the model complaints procedure at Annex 1.** Used properly, it should help eliminate common problems that arise from complaints handling. The model complaints procedure was prepared by a working party experienced in complaints handling led by Governors Wales. It included local authorities, the Children's Commissioner for Wales and the Welsh Government.

1.2 This guidance is published under section 10 of the Education Act 1996 and section 29(2) of the Education Act 2002, which requires school governing bodies to have regard to any guidance to establish and publicise procedures to deal with complaints relating to the school or to the provision of facilities or services under section 27 of the same Act. Governing bodies should consider it carefully and evaluate their current complaints procedures against it. If a governing body is challenged about its complaints procedure, or how it has handled a complaint, it will need to demonstrate that it has good reasons for its actions. Further information on the law can be found in Annex 3 and also in the Welsh Government's *School Governors' Guide to the Law* – see www.governorswales.org.uk/law

1.3 This guidance replaces previous Welsh Government guidance about complaints, namely *School Governing Bodies Complaints Procedures* National Assembly for Wales Circular No: 03/2004 (2004) and *Guidance for School Governing Bodies on Procedures for Complaints involving Pupils* National Assembly for Wales Circular No: 39/2006 (2006). It makes no distinction between complaints from pupils, parents/carers or other persons.

1.4 Governors may seek advice about complaint handling from their local authority governor support officer or from Governors Wales²

The Welsh Government does not advise on complaints cases.

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² Information about Governors Wales is available at www.governorswales.org.uk
Governors may contact Governors Wales by e-mail: helpline@governorswales.org.uk
or telephone: 0845 60 20 100.

Why complaints procedures are important

1.5 There is evidence of a high level of dissatisfaction about complaints handling among parents/carers. The Welsh Government's Living in Wales survey into citizen's views of public services in 2006 found that:

- 32 per cent of parents/carers with children in primary school education felt fairly or very dissatisfied with how their complaint was handled
- 31 per cent of parents/carers with children in secondary school education were also fairly or very dissatisfied with complaint handling.

1.6 Governors Wales receives many inquiries about how to handle complaints annually. This, together with correspondence received by the Welsh Government, and anecdotal evidence from local authorities, suggests that governing bodies find handling complaints difficult. This is not surprising. Complaints may be about a very wide range of matters, are often sensitive, and the people making them place great importance on them. Some complainants are unreasonable or seek to personalise matters, but most complainants simply want their concern taken seriously. Usually a complaint is a simple matter easily dealt with, but unless it is handled purposefully, tactfully and clearly from the start, even a simple complaint can become very difficult and time-consuming. If a complaint is not handled well complainants lose trust and the matter can become personalised in an unpleasant way. It is then very difficult to retrieve the situation. At the heart of successful complaints procedures and handling are mutual respect and a willingness to listen to other points of view.

1.7 Experience has shown that not all governing bodies comply with the law by having a complaints procedure or publicising it. Others have inadequate complaints procedures or fail to follow their procedure. Some governing bodies have made the mistake of using Welsh Government or local authority guidance documents as substitutes for complaints procedures, which is not the purpose of those documents.

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1.8 These weaknesses mean that complaints are not handled well or at all. This can mean that real problems are not addressed and that people lose confidence in schools. If that happens it may damage a school's image which in turn can undermine support for it in the community. None of this helps build a successful school at which pupils achieve their potential.

1.9 Complaints procedures help safeguard children. An effective complaints procedure will solve problems, help schools learn and improve and will build confidence in them. Complaints procedures allow children to exercise their right to participate as laid out in Article 12 of the United Nations Convention on the Rights of the Child (UNCRC). It will also help uphold Article 3 of the UNCRC which means that schools are required to work in the best interests of children.

2. Good complaints handling

Overview

2.1 Section 2 describes general principles for good complaints handling. These underpin the model complaints procedure in Annex 1. The Welsh Government recommends that governing bodies incorporate these principles into their complaints procedure, even if they decide to adopt a different complaints procedure. The principles in this document and the format of the model procedure at Annex 1 broadly align with the PSOW's guidance for public services providers in Wales³.

2.2 Complaints procedures need to be written clearly so that everyone understands them. Treating all complaints seriously and responding to them quickly often means that they can be resolved at an early stage.

2.3 Complaints may be made about a wide variety of matters. They may be brought by parents/carers, pupils, members of staff, members of the local community or governors. Complaints will vary in importance and sensitivity, but even trivial complaints are likely to be very important to the complainant. All complaints need to be handled properly. The complaints procedure must be applied consistently.

What is a complaint?

2.4 For the purpose of this guidance a complaint is 'an expression of dissatisfaction in relation to the school, a governor or a member of its staff that requires a response from the school'.

2.5 If a complaint raises issues about staff capability, staff grievance, staff discipline or child protection, then action must be taken under those procedures and they should take precedence. The complaints procedure must not take the place of those other procedures. Separate procedures also exist to deal with complaints about school admissions or exclusion, special educational needs provision, school organisation proposals, religious worship and the delivery of the curriculum.

³ www.ombudsman-wales.org.uk/en/publications/?pID=256

2.6 It is important that a complainant is told the outcome of their complaint, although any staff disciplinary, or capability, related action triggered by a complaint should be kept confidential.

Impartiality and fairness

2.7 Complaints must be handled fairly, openly and without bias. Prior knowledge of a person or situation should not affect handling or decision making. Complaints should be dealt with on the basis of relevant facts. Failure to do this will inevitably cause loss of confidence in the complaints procedure and the school, and it may mean that a genuine problem is not addressed.

2.8 Complaints are often personal and so need sensitive handling with respect for the rights and feelings of all involved. An empathetic but assertive and clear approach is best. Schools should not tolerate aggressive, abusive or unreasonable behaviour, however, or persistent complaints about the same thing that have no substance.

2.9 Any members of staff or governors dealing with a complaint must be impartial and not compromised by having an interest in a matter or prior involvement. **It is inappropriate for anyone to approach complaints with the attitude that their role is to unthinkingly defend the school, its staff or governors, or the complainant.**

Meetings

2.10 Any meetings should, as far as practicable, be at reasonable times and venues that suit the complainant. Reasonable requests for adjournment should always be considered, with the exception of last-minute cancellation or wilful attempts to obstruct the procedure by repeatedly failing to agree to meet.

2.11 A complainant may want to be accompanied by a companion of their choice. It is reasonable to agree to this but it is also reasonable to expect the complainant to speak and to answer questions; it is not for the companion to do that on their behalf. The exception to this is when the complainant is a pupil; in such cases it is reasonable for the companion to speak on their behalf and/or to advise the pupil.

Timeliness

2.12 Every effort should be made to investigate and make a decision quickly. Delay causes irritation, anxiety, loss of confidence in the school and can mean that a problem goes unaddressed for longer than necessary. Also, delay means memories fade and opinions can become deep-rooted.

2.13 It is important to keep the complainant informed of progress. The model complaints procedure has a timetable set out in a flow chart (see Appendix A of Annex 1). Timescales should be reasonable and flexible; those in the model complaints procedure are suggested timescales and are not mandatory.

2.14 Timescales should always take into account the complexity of a complaint and people's availability. A school may make reasonable changes to timescales during a complaint if it judges that necessary. If timescales are changed anyone with an interest in the complaint should be notified in writing of the change and the reasons for it.

2.15 When complaints are made before a school holiday other than a half-term it is advisable, if practicable, to resolve the complaint before the school closes.

Recording information

2.16 Throughout the complaint procedure it is advisable to keep an accurate record:

- to monitor progress of a complaint
- to be clear about the nature of the complaint
- to document what has been done and what needs to be done
- to provide evidence that the complaint was considered properly (which can be useful if a complainant or a person who is the subject of a complaint is dissatisfied with the way the complaint had been handled)
- for reference, if further complaints arise relating to the original issue
- to identify trends or recurring themes in complaints cases
- to compile reports to governors (and others) on complaints.

2.17 It is advisable to keep a record of all complaints and their outcomes, including those that are anonymous or are withdrawn. It is recommended that governing bodies at least once a year ask the headteacher for a report about complaints made to the school so that they can monitor complaints and consider how to improve procedures or address issues that generate complaints. It is suggested that the headteacher's report should record the number of complaints, whether made by adults or pupils, and that the headteacher also reports to the governing body any related matters considered by the school council. It is suggested that the school keeps records of a complaint for at least seven years.

2.18 Experience has shown the importance of understanding a complaint clearly and fully when it is first made. The model complaints procedure (see Appendix B of Annex 1) has a form that schools can give to complainants to set out their complaint in writing, or which the school can use itself to record details of a complaint. Particular care should be taken that a person making a complaint understands what is written on this form especially where that person is a pupil.

Confidentiality

2.19 Complaints should be treated confidentially with only those involved in investigating and making a decision aware of the nature of the complaint. If a complaint raises issues about staff discipline, conduct or capability then those procedures should apply and the individual should be told the substance of the accusation being made unless there are exceptional reasons such as evidence of criminal activity in which case the police should be informed.

Expectations of the complainant

2.20 The complainant should cooperate by describing their complaint in detail. Complainants should provide specific information which can be investigated and considered.

2.21 Complaints should be made promptly. It is not reasonable for people to make complaints a long time after the event. Preferably a complainant should make their complaint within 10 school days; it is reasonable to give people longer but in most cases schools probably have reasonable grounds to not consider complaints, unless there are exceptional circumstances, brought more than six months from

the point that the complainant first became aware of the event in question. It is always advisable to use discretion when considering whether complaints relating to an event some weeks or months past should be investigated and to have a flexible approach which can be explained and justified. However, complaints which trigger safeguarding/child protection investigations should still be looked at even if this timescale has been exceeded.

2.22 It is reasonable to expect a complainant to attend meetings if reasonable notice is given and the meeting time and location takes reasonable account of the complainant's other commitments. That should mean being prepared to meet at the start or end of the 9a.m.–5p.m. working day if that suits the complainant best. If arrangements are not convenient, an alternative should be offered. Complainants should be given at least one week's notice of meetings.

2.23 Aggressive, abusive or unreasonable behaviour by complainants should not be tolerated. Persistent complainants who have no substance for their complaints may be considered to be behaving unreasonably and told, in writing, that their complaint will not be considered. It is suggested that schools seek advice and support from their local authority in these circumstances.

2.24 If complainants do not meet these expectations at any stage of the complaints procedure, then schools are entitled to not consider their complaints. This should be explained to the complainant in writing and a record kept by the school.

3. Using the model complaints procedure

The three-stage procedure

3.1 The model complaints procedure (Annex 1) is written in a self-explanatory style suitable to give to complainants. Section 3 expands on key points which are also relevant for governing bodies that adopt their own procedure.

3.2 The model complaints procedure has three stages. Appendix A of the model complaints procedure summarises the three stages and recommended timescales. Appendix B of the procedure is a form to record all complaints, including those brought forward by pupils. Assistance should be provided to complete the form or, if necessary, it should be completed on their behalf.

3.3 Most complaints can be settled quickly by the complainant speaking to a member of school staff (see Stage A of the procedure). It is recommended that schools make every effort to do this.

3.4 If the complaint is not resolved at Stage A, the headteacher will consider it (Stage B of the procedure).

3.5 If the complaint is not resolved at Stage B a committee established by the governing body to deal with complaints should consider the complaint (Stage C of the procedure).

3.6 Complainants may try to skip stages in the procedure, for instance by going directly to the headteacher or the governing body. It is strongly advised that this is resisted and the complaint is considered under the appropriate stage of the procedure.

3.7 It is important to explain the complaints procedure to complainants and to provide them with a copy – the model complaints procedure in Annex 1 is written for schools to give to complainants. Complainants must understand and accept that complaints must follow the adopted procedure.

3.8 Prompt handling is important. Delay usually makes matters worse. The model complaints procedure includes suggested timescales but these may be changed if there are good reasons. If they are changed the complainant should be told and given reasons why. It is important to keep the complainant informed of progress. Any complaints received in writing should be promptly acknowledged in writing.

3.9 Schools may choose to have a member of staff who handles all complaints. If so, the individual should be named in the school complaints procedure. If not, the model procedure should be amended accordingly, but some contact point should be provided.

3.10 Procedure is important but it must not be a barrier to complaining. Schools should be pragmatic and use judgement. A complaint may be made to any member of staff. If the headteacher is the first recipient of a complainant, they could delegate it to another member of staff under Stage A. If a governor receives a complaint they should pass it to the headteacher who should then decide whether to delegate it to another member of staff under Stage A. Governors are strongly advised not to become involved in complaints until Stage C.

3.11 Stage C should be rare, but governing bodies must be prepared to deal with complaints when they arise. Before starting Stage C, governing bodies should be sure that Stages A and B have been completed, or that there are reasons for not following them (see Section 7 of the model complaints procedure on page 26 and the '4. Special circumstances' section on page 21 of this guidance).

3.12 If a complainant is invited to a meeting at Stages B or C the invitation should be written and should make clear:

- the time and place of the meeting
- that the complainant can request or suggest another meeting time and place (unless the complainant has already declined a previous arrangement)
- any written information or documents which the school would like to receive
- that the complainant may bring a companion of their choice (who in the case of a pupil making a complaint may speak on the pupil's behalf)
- the names of anyone attending the meeting and their role
- the school's right to decide the complaint if anyone invited does not attend and has not provided a good reason for their absence.

Governing body complaints committees at Stage C

3.13 Governing bodies are advised to establish a committee to deal with complaints. This will make complaint handling more manageable. The model complaints procedure is written on the assumption that governing bodies will establish a complaints committee.

3.14 The committee should have at least three members. It is strongly recommended that committee membership is an odd number to ensure that there is always a majority for any vote on a decision. A majority vote is better than a committee chair having a casting vote. The full governing body should appoint members and should also identify other governors as reserves who can step in if a committee member is unavailable. Committee membership should be checked to rule out any conflicts of interest. It is important to avoid any perception or accusation of bias or conflict of interest, including personal links with the complainant or with any person against whom a complaint is made. Substitute members can be appointed to the committee at any time by the full governing body. Committee membership, terms of reference and the committee's delegated powers should be reviewed annually by the full governing body.

3.15 The headteacher should not be a member of the complaints committee because of prior involvement in Stage B. It is recommended that school staff and teacher governors are also not members of the complaints committee to avoid any suggestion of bias or conflict of interest.

3.16 A governing body may appoint someone to a complaints committee who is not a member of the governing body as long as the majority of committee members are governors. The governing body should decide whether the person appointed has voting rights. This independent person can help avoid unintentional bias and also counter any perceptions about the committee's neutrality.

3.17 It is recommended that governing bodies consider forming joint committees with other schools to handle complaints. Two or more governing bodies may do this using The Collaboration Between Maintained Schools (Wales) Regulations 2008. Again this is a way to demonstrably bring independence into complaints procedures.

When governing bodies do this the terms of reference of the joint committee should make clear the complaints procedure to be used for each school.

3.18 The governing body or its complaints committee must meet at Stage C to make a final decision about whether a complaint is upheld or dismissed. It is usual practice to invite the complainant to the meeting. The committee should consider whether it is better to have everyone with an interest in the complaint at the meeting or whether it is better to meet them separately. Where relationships are strained or have broken down it may be better to have separate meetings. At any meeting, whoever is chairing should ensure that:

- everyone is introduced
- it is understood that a decision will be made on the facts – and that decision will be final
- all relevant issues are addressed
- people attending are put at ease
- the meeting is conducted with respect and courtesy
- everyone has the opportunity to speak and ask questions without interruption
- the meeting does not become confrontational – if there is serious risk that this may happen, or the relationship between the complainant and others involved in the complaint has broken down, the committee should meet people separately.

3.19 During the meeting:

- the committee members may ask questions of any person
- the chair will ask the complainant to explain their complaint
- the chair will ask the headteacher or whoever is representing the school to explain findings of fact and any actions taken by the school
- the chair will ask any witnesses to speak.

3.20 The intention is that:

- the committee understands the complaint so it is able to make a decision based on the facts
- the complainant feels that they have said everything they want to say.

3.21 It is recommended that the committee considers the complaint and makes a decision in private. Having other persons present may influence matters. A committee may seek advice from its local or diocesan authority and it is recommended that they do so if the complaint is complex. It is good practice to make a decision the same day, unless the meeting has revealed issues which require further investigation and consideration. The model complaints procedure suggests that the committee will then write to the complainant about its decision within 10 school days. The letter should explain the reasons for the decision and any action to be taken by the school.

3.22 If the complaint is not upheld the letter should make clear:

- that the complaint has been thoroughly considered
- the school will not reconsider the complaint
- new issues will only be considered if they are clearly different from matters complained about already.

3.23 If the committee cannot make a unanimous decision it may vote with a decision being made by majority.

3.24 The decision needs to cover whether or not the complaint is upheld and if any action needs to be taken by the governing body, headteacher and/or members of staff.

3.25 The committee should also make any recommendations to the full governing body for changes to school policies or procedures to ensure similar problems do not happen again.

Appeals after Stage C

3.26 It is not recommended that governing bodies have an appeals committee that a complainant could go to if not satisfied at Stage C. Experience shows that complaints can be resolved before or at

Stage C if the school procedure is robust and the persons handling the complaint act objectively. Further stages provide opportunity for vexatious complaining. Should there be evidence that a complaint has not been considered properly at Stage C and therefore that standards of governance are not good enough, then a local authority may consider using its powers of intervention. This power provides sufficient safeguard against bad practice in schools.

Publicising a complaints procedure

3.27 The law requires governing bodies to publicise their procedure and a governing body must have regard to this guidance in relation to publicising its procedure. The following applies to all complaints procedures and not just the model complaints procedure contained within this document.

3.28 The procedure must be given to anyone who asks for it. All staff should be given a copy. All staff need to understand the procedure and what is expected of them.

3.29 Possible opportunities to publicise the procedure and make people aware of it are:

- the school website
- the prospectus
- home–school agreements
- the governors’ annual report to parents/carers
- school newsletters.

Additional points about complaints from pupils

3.30 A complaint made by a pupil should be treated as seriously as one made by an adult. The model complaints procedure makes no distinction about who makes a complaint and applies to complaints from pupils too.

3.31 It is the Welsh Government’s policy that all children and young people should be listened to and treated with respect. Annex 2 provides generic text and leaflets for use in primary and secondary schools which schools can use to raise pupils’ awareness about complaints. In line with the UNCRC, pupils need to be aware of their right to complain if they are dissatisfied or unhappy. The Welsh

Government has established MEIC, which is a national advocacy and advice helpline for children and young people⁴. The Welsh Government is committed to all children and young people having access to people – ‘advocates’ – who can help a pupil put their point of view, advise them, or speak on their behalf⁵. **The term ‘advocate’ is not used by the Welsh Government to mean a legally trained person.** It ought not to be necessary for someone to bring a companion who is legally qualified. It should be borne in mind that the complaints procedure is not a forum for a debate on the law. It is the Welsh Government’s view that complaints handling is more difficult if the meeting is unhelpfully adversarial.

3.32 Pupil complaints should follow the same procedure as other complaints. Pupils should put complaints to their form tutor, or a member of staff chosen by the school to deal specifically with pupil concerns. These persons should then handle the complaint using Stage A of the model complaints procedure. It is important that school staff are sensitive and empathetic, avoiding seeming defensive or dismissive. It is essential that they understand the complaints procedure.

3.33 It is recommended that if a pupil under the age of 16 brings a complaint or is involved in any other way, the school should bring the matter to the attention of the pupil’s parent(s) or carer(s) having discussed this course of action with the pupil beforehand and preferably having sought the pupil’s consent. Those persons should be invited to attend any discussion or interview with the pupil. Should a pupil be involved in a complaint at Stages B or C the pupil may want to be accompanied by a person of the pupil’s choice. The school should make sure that the pupil understands this so that they can make an informed decision.

3.34 Any Stage C committee should be sensitive to a pupil’s maturity, as well as taking care to ensure the pupil’s view is properly heard and that the pupil understands what happens at Stage C.

3.35 Schools should make it easy for pupils to raise matters with the school council. A complaint may relate to an issue that is not personal to the complainant but concerns many pupils. In this case the complainant(s) should be encouraged to seek the views of

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⁴ MEIC may be contacted by freephone: 080880 23456, or text: 84001. This service is operated 24 hours a day.

⁵ *Providing Effective Advocacy Services for Children and Young People Making a Representation or Complaint under the Children Act 1989.*

pupils through the school council. A member of staff might help the pupil(s) raise the issue at the next school council meeting by ensuring that the issue is put on the agenda, or help the pupil contact their school council representative.

3.36 In addition to the Annex 2 leaflets a school or governing body might use the following ways to raise pupil awareness of how to raise concerns or make a complaint:

- through the form tutor or pastoral sessions, PSE lessons or assemblies
- through the school council
- in homework diaries
- through an information booklet for pupils
- in leaflets or small wallet-/purse-sized cards that include contact details for help
- in information posters around the school
- through the school website
- through peer mediation and mentoring schemes.

4. Special circumstances

4.1 The model complaints procedure needs to be adapted if a complaint is made about the headteacher, a governor or group of governors, the chair or vice chair of governors, or the whole governing body. Section 4 provides guidance about the circumstances outlined in Section 7 of the model procedure. Section 4 applies irrespective of who makes a complaint.

Complaint about the headteacher

4.2 Any complaint about the headteacher should be given to the chair of governors who may delegate it to another governor who will investigate it.

4.3 It is important to first establish whether the complaint should be dealt with under a procedure for staff capability, staff grievance, staff disciplinary or child protection. If it does, then those procedures take precedence. If not, the complaint should proceed under Stage B of the model complaints procedure. If the complaint is not resolved, the complainant may take it to Stage C. Any governor involved at Stage B cannot be a committee member at Stage C.

Complaint about the chair of governors

4.4 The vice chair should deal with a complaint about the chair of governors or delegate it to another governor. Stage B onwards of the model complaints procedure should apply. Depending on the nature of the complaint the vice chair should inform the local authority (and if appropriate the diocesan authority) that a complaint has been made and what action will be taken by whom.

4.5 If the complaint is upheld then the complaints committee should consider whether it needs to recommend to the full governing body that the chair should be removed and another governor appointed to that role.

Complaint about the chair of governors and the headteacher

4.6 The complaint should be dealt with in the same way as a complaint about the chair of governors or headteacher, by the vice chair or their delegate.

Complaint about the chair and vice chair of governors

4.7 Any complaint about the chair and the vice chair of governors should be referred to the clerk to the governing body who will inform the chair of the complaints committee. The chair of the complaints committee should arrange for a complaints committee hearing in accordance with Stage C. If the chair of the complaints committee is the chair or vice chair of governors, then the complaint should be referred to another member of the complaints committee and another governor must take the place of the chair and/or vice chair on the complaints committee.

Complaint about a governor or group of governors

4.8 If a complaint is made against a governor or group of governors it should be referred to the chair of governors (provided that the chair is not a subject of the complaint). The chair or a governor chosen by the chair should investigate (Stage B onwards of the model complaints procedure should apply). If the complaint is upheld the complaints committee should consider whether to recommend to the governing body that some or all of the governors subject to the complaint should resign or be removed from the governing body. Care should be taken to ensure that no governors implicated in the complaint take part in investigating it, are members of the complaints committee or take part in any governing body discussion and decisions about governors resigning or being removed.

4.9 If the chair and vice chair are part of the group of governors, the complaint should be referred to the clerk of the governing body who should proceed as described previously for complaints about the chair and vice chair of governors.

4.10 If so many governors are the subject of a complaint that too few remain to make up a complaints committee, or to provide a quorum for any subsequent decisions that the whole governing body might need to take, then the 'whole governing body' procedure described below should be used.

Complaint against the whole governing body

4.11 If a complaint is made about the whole governing body it should be referred to the clerk who should inform the local authority and, if appropriate, the diocesan authority, the chair of governors and the headteacher.

4.12 It is recommended that the local and/or diocesan authorities agree arrangements with the governing body for investigation and consideration of the complaint. There may be grounds for independent investigation; the local authority should advise and governing bodies are strongly advised to act on that advice. The local authority could investigate the complaint or arrange for investigation by a third party. Investigation should not be undertaken by the clerk or school staff.

4.13 If investigation suggests that there are grounds for the complaints, the local authority should try to secure the agreement of the governing body for the complaint to be heard by a committee of independent persons set up specifically for that purpose. An independent committee should act as a complaints committee would act at Stage C of the model complaints procedure.

4.14 If the governing body does not cooperate with the authority or a committee established by the authority to consider the complaint, or acts against or fails to act on reasonable advice, then the local authority would be justified in considering using its powers of intervention. If a complaint provides evidence that a governing body is performing poorly, is acting unreasonably, or is in breach of the law, then a local authority may use its powers of intervention (advisably, in consultation with diocesan authorities in the case of schools with religious character).

Complaints about members of school staff, including any designated complaints officer

4.15 Any complaint about a member of staff should be passed to the headteacher. The headteacher may decide to delegate investigation to another senior member of staff under Stage A of the procedure, or to investigate it themselves under Stage B. If the complainant is not happy with the outcome they may proceed through the complaints procedure until Stage C is completed. Care should be taken that if there are matters of a staff disciplinary or capability nature that procedures for those are followed and take precedence.

Anonymous complaints

4.16 It is recommended that anonymous complaints are recorded but are not investigated unless there is a suggestion of criminal conduct or concerns about child safeguarding in which case the local

authority/police, as appropriate, should be informed. In deciding whether to investigate or just to record, consideration should be given to whether the complainant could be afraid of being identified; this may be particularly pertinent in the case of complaints made by pupils who may fear being labelled troublemakers.

Complaints that are withdrawn

4.17 A complainant may withdraw a complaint at any time. It is recommended that a record is kept and a letter sent to the complainant stating that because the complaint is withdrawn the complaints procedure will not be used. These actions are recommended in order to have a record and also to manage vexatious complainants.

Criminal activity

4.18 Suggestion of criminal activity should be referred to the headteacher or, if it involves the headteacher, to the chair of governors. The head or chair (as appropriate) should bring the complaint to the attention of the police and the local authority (and if applicable the diocesan authority). If the head and the chair are both subjects of the complaint, then the vice chair should inform the police and the local authority.

5. Roles and responsibilities of other bodies

The local authority

5.1 A local authority should satisfy itself that all the schools it maintains have adequate complaints procedures that are publicised.

5.2 A local authority may provide whatever advice it chooses to governing bodies. It may also provide guidance documents in addition to this publication.

5.3 A governing body may seek advice from a local authority about its complaints procedure or how to handle a complaint or assistance to investigate a complaint. The statutory responsibility for dealing with complaints remains with the governing body however.

5.4 A governing body complaints procedure may, with the agreement of the local authority, include a stage after Stage C for the local authority to consider the complaint.

5.5 A local authority should consider any evidence that suggests that a governing body does not have a complaints procedure, has an inadequate procedure, has not followed its procedure or has a procedure that is inoperable because persons who are subjects of the complaint investigate it or make decisions about it.

5.6 If a school complaints procedure is inoperable, if there are grounds to cast doubt on its independence, or in other reasonable circumstances, a local authority may arrange, with the agreement of the governing body, for a panel of independent persons to consider a complaint.

5.7 A local authority may use its powers of intervention under the Schools Standards and Framework Act 1998 if the governance or management of a school is inadequate.

The diocesan authorities

5.8 Diocesan authorities may provide advice to schools to which they appoint governors and such schools may seek advice from the diocesan authorities. Schools with religious character may agree to the diocesan authority investigating a complaint or arranging for a third party to do so.

The Welsh Government

5.9 If the Welsh Government receives a complaint about a school it will advise that the complaint should be addressed to the school for consideration under the school's complaints procedure. If it appears that the governing body is failing to deal with the complaint, the Welsh Government will bring the complaint to the attention of the local authority to provide support or take action.

The Children's Commissioner for Wales

5.10 The Children's Commissioner for Wales has an advice and support service⁶ for children and young people, and the people who care for them. Children and young people and their carers can go to the Children's Commissioner when they need advice and support. The Children's Commissioner's officers are not counsellors but work with children, young people and adults to find a solution.

5.11 The Children's Commissioner does not take the place of governors or of governing body complaints procedures. The Commissioner may examine individual cases, and to do so may require information, explanations and assistance from governors, local authority officers and members, and school staff. The Commissioner may also, for the purposes of reviewing and monitoring arrangements made for dealing with complaints, whistleblowing and advocacy, or the absence of such arrangements, require information from governors, local authority officers and members, and school staff. The Commissioner may produce reports with recommendations but does not have power to require their implementation, although can publicise any failure to do so.

The Public Services Ombudsman for Wales

5.12 The Public Services Ombudsman for Wales (PSOW) has no role with respect to complaints which come within the scope of complaints procedures described in this guidance.

The General Teaching Council for Wales

5.13 The General Teaching Council for Wales (GTCW) has no role regarding governing body complaints procedures described in this guidance.

⁶ The Children's Commissioner for Wales can be contacted by freephone: 0808 801 1000 (Monday to Friday 9a.m. to 5p.m.) text: 80 800 (start your message with COM) or e-mail: advice@childcomwales.org.uk

Annex 1: Model complaints procedure

1. Introduction

1.1 [Name of school] is committed to dealing effectively with complaints. We aim to clarify any issues about which you are not sure. If possible we will put right any mistakes we have made and we will apologise. We aim to learn from mistakes and use that experience to improve what we do.

1.2 Our definition of a complaint is 'an expression of dissatisfaction in relation to the school or a member of its staff that requires a response from the school.'

1.3 This complaints procedure supports our commitment and is a way of ensuring that anyone with an interest in the school can raise a concern, with confidence that it will be heard and, if well-founded, addressed in an appropriate and timely fashion.

2. When to use this procedure

2.1 When you have a concern or make a complaint we will usually respond in the way we explain below. Sometimes you might be concerned about matters that are not decided by the school, in which case we will tell you who to complain to. At other times you may be concerned about matters that are handled by other procedures, in which case we will explain to you how your concern will be dealt with.

2.2 If your concern or complaint is about another body as well as the school (for example the local authority) we will work with them to decide how to handle your concern.

3. Have you asked us yet?

3.1 If you are approaching us for the first time you should give us a chance to respond. If you are not happy with our response then you may make your complaint using the procedure we describe below. Most concerns can be settled quickly just by speaking to the relevant person in school, without the need to use a formal procedure.

4. What we expect from you

4.1 We believe that all complainants have a right to be heard, understood and respected. But school staff and governors have the same right. We expect you to be polite and courteous. We will

not tolerate aggressive, abusive or unreasonable behaviour. We will also not tolerate unreasonable demands or unreasonable persistence or vexatious complaining. It may be appropriate for the school to develop an 'unacceptable actions' policy; an example is available from the PSOW, in which case add 'We have a separate policy to manage situations where we find that someone's actions are unacceptable.'

5. Our approach to answering your concern or complaint

5.1 We will consider all your concerns and complaints in an open and fair way.

5.2 At all times the school will respect the rights and feelings of those involved and make every effort to protect confidential information.

5.3 Timescales for dealing with your concerns or complaints may need to be extended following discussion with you.

5.4 We may ask for advice from the local authority or diocesan authority where appropriate.

5.5 Some types of concern or complaint may raise issues that have to be dealt with in another way (other than this complaints policy), in which case we will explain why this is so, and will tell you what steps will be taken.

5.6 The governing body will keep the records of documents used to investigate your concern or complaint for seven years after it has been dealt with. Records will be kept in school and reviewed by the governing body after seven years to decide if they need to be kept for longer.

5.7 Complaints that are made anonymously will be recorded but investigation will be at the discretion of the school depending on the nature of the complaint.

5.8 Where complaints are considered to have been made only to cause harm or offence to individuals or the school, the governing body will ensure that records are kept of the investigations that are made and what actions are taken, including the reasons for 'no action'.

6. Answering your concern or complaint

6.1 The chart in Appendix A shows what may happen when you make a complaint or raise a concern. There are up to three Stages: A, B and C. Most complaints can be resolved at Stages A or B. You can bring a relative or companion to support you at any time during the process but you will be expected to speak for yourself. However, we recognise that when the complainant is a pupil it is reasonable for the companion to speak on their behalf and/or to advise the pupil.

6.2 As far as possible, your concern or complaint will be dealt with on a confidential basis. However, there could be occasions when the person dealing with your concern or complaint will need to consider whether anyone else within the school needs to know about your concern or complaint, so as to address it appropriately.

6.3 If you are a pupil under 16 and wish to raise a concern or bring a complaint we will ask for your permission before we involve your parent(s) or carer(s). If you are a pupil under 16 and are involved in a complaint in any other way, we may ask your parent(s) or carer(s) to become involved and attend any discussion or interview with you.

Stage A

6.4 If you have a concern, you can often resolve it quickly by talking to a teacher or [name of school's designated person]. You should raise your concern as soon as you can; normally we would expect you to raise your issue within 10 school days of any incident. The longer you leave it the harder it might be for those involved to deal with it effectively.

6.5 If you are a pupil, you can raise your concerns with your school council representative, form tutor or a teacher chosen to deal with pupil concerns (as appropriate for the school). This will not stop you, at a later date, from raising a complaint if you feel that the issue(s) you have raised have not been dealt with properly.

6.6 We will try to let you know what we have done or are doing about your concern normally within 10 school days, but if this is not possible, we will talk to you and agree a revised timescale with you.

6.7 The person overseeing your concern or complaint will keep you informed of the progress being made. This person will also keep a log of the concern for future reference.

Stage B

6.8 In most cases, we would expect that your concern is resolved informally. If you feel that your initial concern has not been dealt with appropriately you should put your complaint in writing to the headteacher.

6.9 We would expect you to aim to do **this within five school days of receiving a response to your concern as it is in everyone's interest to resolve a complaint as soon as possible.** There is also a form attached (**Appendix B**) that you may find useful. If you are a pupil we will explain the form to you, help you complete it and give you a copy.

6.10 If your complaint is about the headteacher, you should put your complaint in writing to the chair of governors, addressed to the school, to ask for your complaint to be investigated.

6.11 In all cases, [name of school's designated person] can help you to put your complaint in writing if necessary.

6.12 If you are involved in any way with a complaint, [name of the school's designated person] will explain what will happen and the sort of help that is available to you.

6.13 [Name of the school's designated person] will invite you to discuss your complaint at a meeting. Timescales for dealing with your complaint will be agreed with you. We will aim to have a meeting with you and to explain what will happen, normally within 10 school days of receiving your letter. The school's designated person will complete the investigation and will let you know the outcome in writing within 10 school days of completion.

Stage C

6.14 It is rare that a complaint will progress any further. However, if you still feel that your complaint has not been dealt with fairly, you should write, through the school's address, to the chair of governors setting out your reasons for asking the governing body's complaints committee to consider your complaint. You do not have to write down details of your whole complaint again.

6.15 If you prefer, instead of sending a letter or e-mail, you can talk to the chair of governors or [person designated by the school] who will write down what is discussed and what, in your own words,

would resolve the problem. We would normally expect you to do this within five school days of receiving the school's response. You will be asked to read the notes or will have the notes read back to you and then be asked to sign them as a true record of what was said. We will let you know how the complaint will be dealt with and will send a letter to confirm this. The complaints committee will normally have a meeting with you within 15 school days of receiving your letter.

6.16 The letter will also tell you when all the evidence and documentation to be considered by the complaints committee must be received. Everyone involved will see the evidence and documentation before the meeting, while ensuring that people's rights to privacy of information are protected. The letter will also record what we have agreed with you about when and where the meeting will take place and what will happen. The timescale may need to be changed, to allow for the availability of people, the gathering of evidence or seeking advice. In this case, the person dealing with the complaint will agree a new meeting date with you.

6.17 Normally, in order to deal with the complaint as quickly as possible, the complaints committee will not reschedule the meeting more than once. If you ask to reschedule the meeting more than once, the committee may think it reasonable to make a decision on the complaint in your absence to avoid unnecessary delays.

6.18 We will write to you within 10 school days of the meeting explaining the outcome of the governing body's complaints committee's consideration.

6.19 We will keep records of all conversations and discussions for the purpose of future reference and review by the full governing body. These records will be kept for a minimum of seven years.

6.20 The governing body's complaints committee is the final arbiter of complaints.

7. Special circumstances

7.1 Where a complaint is made about any of the following the complaints procedure will be applied differently.

i. **A governor or group of governors**

The concern or complaint will be referred to the chair of governors for investigation. The chair may alternatively delegate the matter to another governor for investigation. Stage B onwards of the complaints procedure will apply.

ii. **The chair of governors or headteacher and chair of governors**

The vice chair of governors will be informed and will investigate it or may delegate it to another governor. Stage B onwards of the complaints procedure will apply.

iii. **Both the chair of governors and vice chair of governors**

The complaint will be referred to the clerk to the governing body who will inform the chair of the complaints committee. Stage C of the complaints procedure will then apply.

iv. **The whole governing body**

The complaint will be referred to the clerk to the governing body who will inform the headteacher, chair of governors, local authority and, where appropriate, the diocesan authority. The authorities will usually agree arrangements with the governing body for independent investigation of the complaint.

v. **The headteacher**

The concern or complaint will be referred to the chair of governors who will undertake the investigation or may delegate it to another governor. Stage B onwards of the complaints procedure will apply.

7.2 In all cases the school and governing body will ensure that complaints are dealt with in an unbiased, open and fair way.

8. Our commitment to you

8.1 We will take your concerns and complaints seriously and, where we have made mistakes, will try to learn from them.

8.2 If you need help to make your concerns known we will try and assist you. If you are a young person and need extra assistance the Welsh Government has established MEIC which is a national advocacy and advice helpline for children and young people. Advice and support can also be accessed from the Children's Commissioner for Wales.

8.3 The governing body has consulted with staff and pupils on this policy and will consult further if any amendments are made in the future.

Signed by chair of governors on behalf of the governing body:

.....

Date approved:
(by full governing body)

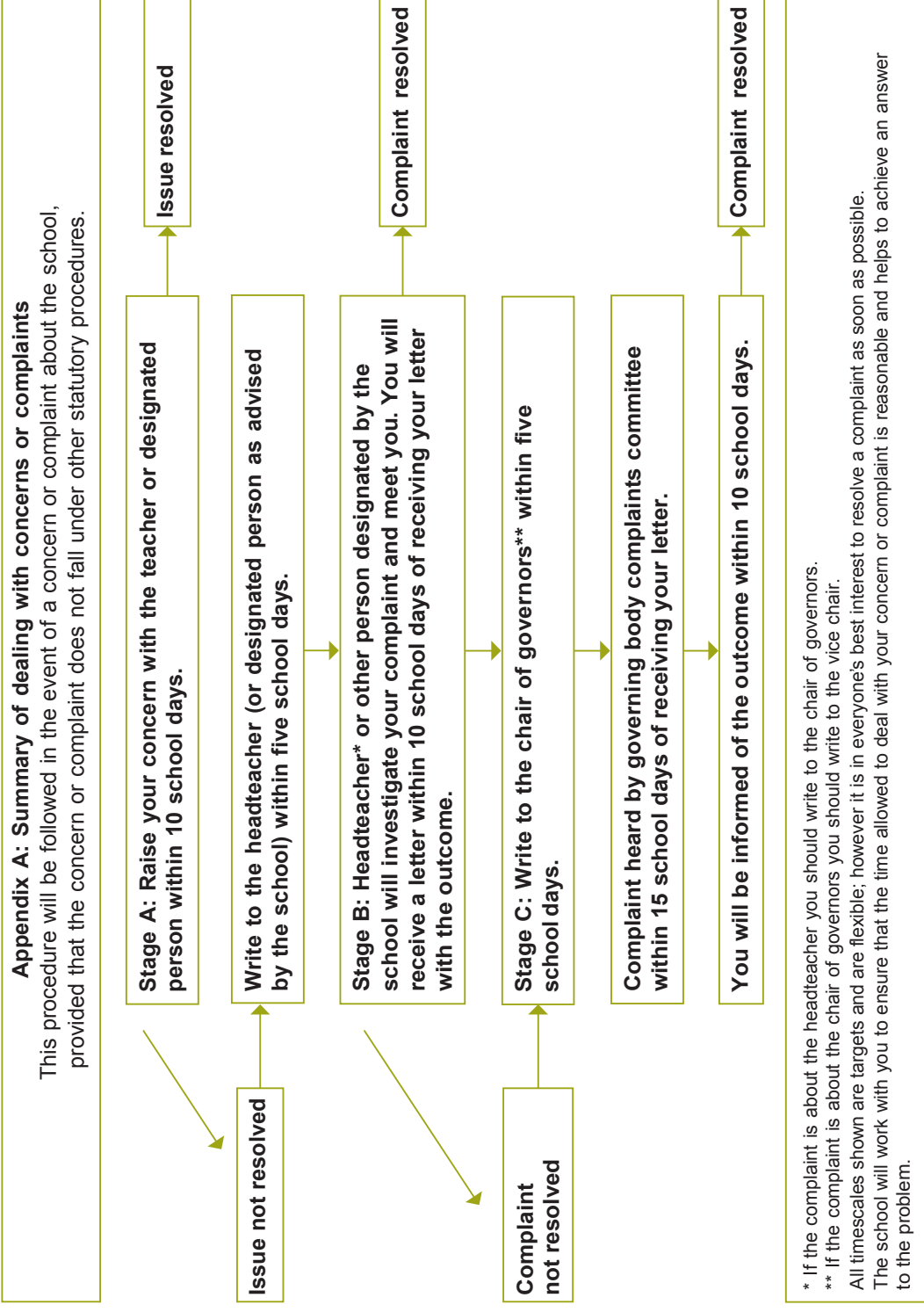
Date of review:

Date sent to the local authority:
[there is no statutory requirement to do this, but it is good practice]

MEIC may be contacted by freephone: 0808 802 3456, or text: 84001.
This service is operated 24 hours a day.

The Children's Commissioner for Wales can be contacted by freephone:
0808 801 1000 (Monday to Friday 9a.m. to 5p.m.), text: 80 800 (start your
message with COM) or e-mail: advice@childcomwales.org.uk

Appendix A: Summary of dealing with concerns or complaints



Appendix B: Model complaint form

The person who experienced the problem should normally fill in this form. If you are making a complaint on behalf of someone else please fill in Section B also. Please note that before taking forward the complaint we will need to be satisfied that you have the authority to act on behalf of the person concerned. If you are a pupil the school will help you complete this form, will explain it to you and will give you a copy of it when it is completed.

A. Your details

Surname	
Forename(s)	
Title: Mr/Mrs/Ms/other	
Address and postcode	
Daytime phone number	
Mobile phone number	
e-mail address	

How would you prefer us to contact you?

B. If you are making a complaint on behalf of someone else, what are their details?

Their name in full	
Address and postcode	
What is your relationship to them?	
Why are you making a complaint on their behalf?	

C. About your complaint (continue your answers on separate sheets of paper if necessary)

C.1 Name of the school you are complaining about.

C.2 What do you think they did wrong or did not do?

C.3 Describe how you have been affected.

C.4 When did you first become aware of the problem?

C.5 If it is more than three months since you first became aware of the problem, please give the reason why you have not complained before.

C.6 What do you think should be done to put matters right?

C.7 Have you already put your complaint to a member of staff?
If so, please give brief details about how and when you did so.

Signature of complainant: **Date:**

**Signature if you are making a complaint on behalf of
someone else**

Signature: **Date:**

Please send this form and any documents to support your
complaint to:

[Insert name of complaint handler]
[Insert address and contact details of complaint handler]

Official Use

Date acknowledgement sent: By
whom:
Complaint referred to:
Date:

Complaints procedures
for school governing
bodies in Wales
Guidance document no:
011/2012
Date of issue:
October 2012