



**HEART**  
EDUCATION TRUST

## **Complaints Policy and Procedure**

24 September 2018

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**Next Review Due:** 1 October 2020

**Adopted by:** The Chief Executive Officer for and on behalf of the Strategic Board on 24 September 2018

The HEART Education Trust Documents Review Record:

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The HEART Education Trust, a charitable company limited by guarantee registered in England and Wales with company number 08286818. Registered office address: Heartsease Primary Academy, Rider Haggard Road, Norwich, Norfolk NR79UE.

## **INTRODUCTION**

Under Part 7, Schedule 1 to the Education (Independent School Standards) Regulations 2014, the Trust is required to have in place a procedure to deal with complaints relating to it and to any community facilities or services that it provides.

This policy and procedure is made accessible to the public via the Trust website and the individual websites of each of the Trust's academies.

This policy does not apply to complaints about:

- Admissions & Exclusions;
- Curriculum;
- Provision of Collective Worship and Religious Education; or
- Allegations of bullying by pupils.

which are dealt with under separate policies or procedures.

Equally, complaints by employees of the Trust are usually dealt with via the Trust's Grievance Policy.

It is the Trust's intention that this Complaints Policy and Procedure will:

- encourage resolution of problems by **informal** means wherever possible;
- be **simple** to understand and use;
- be impartial;
- be non-adversarial;
- allow **swift** handling with established **time-limits** for action and keeping people informed of the progress;
- ensure a full and **fair** investigation by an independent person where necessary;
- respect people's desire for **confidentiality**;
- address all the points at issue and provide an **effective** response and **appropriate** redress, where necessary;
- provide **information** to the Trust's Executive team and / or the relevant academy's senior leadership team so that services can be improved.

## **SPECIFIC PROVISIONS**

### **Complaint Handler**

- In the case of a complaint relating to an academy or a member of academy educational staff, the Complaint Handler will be the relevant Academy Headteacher;
- in the case of a complaint relating to a department of the Trust's head office or member of departmental staff, the Complaint Handler will be the relevant Head of Department;
- in the case of a complaint relating to the Trust Executive Board or The Strategic Board of Trustees, the Complaint Handler will be the Trust's Chief Executive Officer;

save as to where

- a complaint is lodged concerning the conduct of the appropriate Complaint Handler himself, (or where the appropriate Complaint Handler has been involved in the issue previously), whereupon the Chief Executive Officer of the Trust will take on the role of the Complaint Handler; or
- where a complaint is lodged concerning the conduct of the Chief Executive Officer (or where the Chief Executive Officer has been involved in the issue previously), whereupon the Trust's Chair of Trustees will take on the role of the Complaint Handler.

Where the appropriate Complaint Handler is the Chair of Trustees, Chief Executive Officer or an Academy Headteacher, he may delegate the role of Complaint Handler to his Deputy as appointed from time to time where operational needs dictate, and the Complainant will be notified of this arrangement as soon as is reasonably practicable.

### **Complaint Form**

The Complaint Form required under Stage 2 of this procedure must be submitted to the Complaint Handler identified above.

If a Complainant is not sure of the identity of the appropriate Complaint Handler, they may contact the Trust Operations Manager for guidance.

### **Adjustment / Modification of Complaints Procedure**

The Trust may also in appropriate circumstances adjust or modify this policy and procedure where the particular circumstances of the complaint warrant it.

### **Exclusions and Exceptional Circumstances**

An anonymous complaint will only be investigated in very limited and exceptional circumstances.

A complaint relating to matters more than 3 months in the past will normally only be accepted and investigated in exceptional circumstances.

Exceptional Circumstances typically include:

- Child protection issues; or
- Bullying allegations.

In such cases, the Trust may either involve appropriate external agencies or conduct its own internal review to test whether there is any corroborative evidence which might trigger a formal investigation.

### **Unreasonable Conduct by a Complainant**

Complainants (and/or anyone acting on their behalf) may be deemed by the Complaint Handler to be unreasonable if they have behaved in any of the following ways (this list is not exhaustive):

- The complainant makes such frequent contact with the academy or Trust that objective consideration of a "live" complaint is hindered;
- The complainant makes a string of further complaints about a "live" investigation or changes aspect of the complaint, during the investigation;

- The complainant exhausts all stages of the Trust’s complaints procedure but continues to pursue the same matter;
- The complainant seeks an unrealistic outcome and persists in doing so despite being advised that this is the case.

In these examples a “contact” may be in person, in writing, by email, by telephone, by SMS text or via social media.

The Trust may decide to deal with such complaints in one or more of the following ways, for example:

- Try to agree with the complainant a code of behaviour for the parties involved if the Trust is to continue processing the complaint.
- To require contact to take place with a named officer only.
- To restrict telephone calls to specified days and times.
- To restrict contact with the complainant to one form of contact only.

Where a complainant continues to behave in an unacceptable fashion the Trust’s Chief Executive Officer may authorise staff to terminate contact with the complainant (except in matters directly related to the education and welfare of their child) and they may discontinue any further investigation being carried out. Any further contacts from the complainant in writing will be read and placed on file. Telephone calls relating to the complaint will be terminated and logged.

Once a complaint has been addressed formally via this procedure, the matter will be closed. Should a complainant remain dissatisfied, despite all stages of the procedures having been followed, and seek to reopen the same issue, the Chief Executive Officer will simply inform them in writing that the procedure has been exhausted and that the matter is now closed. A sample letter is set out at Annex 2.

### **Disclosure**

The complainant is not entitled to access to documentation generated or collated as part of any investigation, save for any statement provided by their own child.

### **Removal of a Child**

Where a child is not on the Trust’s roll, or ceases to be on the Trust’s roll during the investigation of a complaint presented on their behalf, the complaint will be closed and no further action taken.

## **THE COMPLAINTS PROCEDURE**

(See summary diagram in Annex 4)

### **Stage One (informal): Complaint Heard by Staff Member**

Where an individual has a concern regarding a member of staff, it should in most cases be raised with that member of staff directly. This should generally enable a concern to be resolved at the earliest possible stage and avoid any need for it to escalate into a formal complaint.

Members of staff dealing with such concerns should keep a written record of the concern and the steps taken to deal with it. This is particularly important where the concern is raised (and resolved) verbally.

If an acceptable resolution is not reached, the member of staff should direct the individual to this procedure.

If an individual presents a formal complaint to the Trust without having initially sought to resolve it informally, this may affect how the Trust deals with their concern, including that it may lead the Trust to reject the complaint.

The Trust does however recognise that there may be circumstances in which:-

- it would be difficult for a particular complainant to discuss a complaint with a particular member of staff; or
- the member of staff directly involved feels too compromised to deal with the complaint.

In these cases, the Complaints Handler can refer the complainant to another staff member (including a Trustee) for informal resolution. Such alternative member of staff may be more senior, but does not have to be, and they are simply required to consider the complaint objectively and impartially.

Where a complaint is received which does not appear to have explored this stage of the procedure (such as where the first approach is made to a member of Trust Executive Board or the Strategic Board of Trustees) and which does not indicate that there is good reason (as indicated above) why this has not been done, the usual next step would be to refer the complainant to the appropriate person and advise them about the procedure.

### **Stage Two (formal): Complaint Heard by Complaints Handler**

A formal complaint should be issued to the Trust in the Complaint Form set out at Annex 1, or at least including all the matters covered in that form. The Complaint Form must then be sent to the appropriate Complaint Handler as outlined above. The Trust will promptly acknowledge the complaint (usually within five term time days) and the Complaint Handler will consider it and reach the decision upon any action to be taken (usually within 10 term time days of acknowledgement of the complaint).

The Complaint Handler will usually also investigate the complaint; however, the Complaint Handler may if appropriate appoint another suitable person to investigate the complaint and produce a report which the Complaint Handler will consider in reaching their decision.

The Complaint Handler will confirm his/her decision in writing, usually within 25 term time days of the date of acknowledgement of the complaint (save as to where this is not practicable due to the nature of the complaint and depth of investigation required).

The Complaint Handler dealing with the formal complaint must keep a written record of the complaint and any action taken as a result of the formal complaint. At this point, the complainant may be dissatisfied with the way the complaint was handled at Stage one as well as pursuing their initial complaint, and such concerns should be addressed within the Complaint Handler's outcome.

### **Stage Three (formal): Appeal**

If the complainant remains dissatisfied with the outcome of Stage 2, they should write to the following person:

- where the Complaint Handler is an Academy Headteacher or Head of Department, to the Chief Executive Officer; and
- where the Complaint Handler is the Chief Executive Officer or a Trustee of the Strategic Board, to the Chair of the Strategic Board;

giving details of the complaint and the reasons why they disagree with the Complaint Handler's decision at Stage 2, no later than **10 working days** from the date of the Complaint Handler's decision letter.

The Chief Executive Officer or Chair of the Strategic Board (as appropriate) will convene or instruct the convening of a Stage 3 Appeal Hearing and a letter will be sent to the complainant within 10 term time days of receipt of the complainant's letter of appeal, inviting the complainant to attend the hearing. The complainant may be accompanied to the Appeal Hearing by a friend or family member. The Appeal Hearing will usually be scheduled for within 25 term time days of the date of the letter inviting the complainant to the Appeal Hearing.

The panel hearing the appeal will be made up of at least three individuals, at least one of whom will be independent of the day-to-day management and running of the academy and Trust.

In order for them to prepare for the hearing, the Panel should receive in advance (in particular but not exclusively):-

- A summary of the steps taken at Stage 1;
- The formal complaint lodged at Stage 2;
- The investigation steps taken by the Trust;
- The Complaint Handler's decision; and
- The complainant's appeal correspondence and any supporting documentation.

In most cases, the Stage 3 Hearing will be attended by:-

- The panel (with one individual chosen to act as Chair of the panel);
- The complainant;
- A clerk.

The Complaint Handler may attend, if it is considered appropriate, to explain his/her actions and/or decision at Stage 2. However, it will not normally be expected for the subject of the original complaint to attend, nor for witnesses to attend and give evidence in person.

### **CONDUCT OF THE PANEL HEARING**

At the hearing, the complainant will be given a full and fair opportunity to present the grounds of their complaint and any supporting evidence, together with their reasons for rejecting the decision of the Complaint Handler's decision at Stage 2. It should be made clear what resolution is sought by the complainant and why this is considered appropriate.

The Panel's decision will usually be reached on the basis of the documentary evidence available, although the panel may adjourn the hearing if necessary to conduct further investigation. The Panel's role is not to re-investigate the case, but to review the steps taken to date.

In order to retain the non-adversarial approach recommended by the DfE, the following principles will apply to the hearing:

- The Panel will act independently and impartially, and will not therefore have had any previous involvement in the process;
- The hearing will be as informal as possible and the Panel will endeavour to put and keep the complainant at their ease.
- Witnesses will not normally be required to attend to give evidence in person, and the written evidence (as recorded in notes of any investigation interview) will usually be taken as read.
- Should the complainant want a particular witness to attend in person, this request should be justified with reasons and the Panel should make the decision as to whether to proceed in this way. In such cases, the witness will only be required to attend for the part of the hearing in which they give their evidence and can afterwards be excused.
- The focus of the hearing will be on hearing from the complainant. The Complaint Handler, if attending, can respond to points raised by the complainant.
- The panel may ask questions at any point.
- The complainant will not be present whilst the Panel deliberates.
- The Panel's decision will be confirmed in writing following the hearing.

### **THE PANEL'S DECISION**

The Panel will have to consider the issues raised by the complainant and the evidence supporting their complaint.

It will often be the case that the evidence of two or more witnesses conflict, and in such cases, the Panel will have to make a finding of whose evidence to prefer and for what reasons they have reached this decision.

The Panel will consider the complainant's appeal and may:-

- 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 Trust's systems or procedures to ensure that problems of a similar nature do not recur.

Dismissal of a complaint may be done where (without limitation):-

- There is insufficient evidence to reach a conclusion, so the complaint cannot be upheld.
- The concern is not substantiated by the evidence.
- The matter has been fully investigated and that appropriate procedures are being followed, which are strictly confidential.

Where a complaint is substantiated in part or in full, some details may then be given of action the Trust may be taking to review procedures etc. but details of the investigation or of any disciplinary procedures will not be released.

This will be confirmed in writing to the complainant as soon as reasonably practicable (usually within 10 term time days).

A copy of the Panel's findings and recommendations may also be provided to the person complained about.

The Panel's review is the last stage of the complaints process.

The Panel's findings will also be available for inspection on the Trust premises by the Company Members, Strategic Board, Trust Executive and Academy Headteacher / Head of Department (where relevant).

### **MONITORING AND REVIEW**

Each Academy Headteacher and Head of Department will report on the operation of the Complaints Policy and Procedure to the Trust Executive Board once a year (who will in turn report to the Strategic Board). These reports will include:

- the number of formal complaints that have been made.
- the number that have been satisfactorily dealt with at the point of the original investigation.
- the number of occasions on which the Appeal Panel has met.
- any significant amendments to Trust or Academy policies or practices as a result of the complaints made.
- any issues that have arisen in the operation of the Complaints Policy and Procedure.

These reports will respect the confidentiality of the individual.

In the light of these reports, the Strategic Board will consider whether or not the Complaints Policy and Procedure should be amended in any way.

### **Education Funding Agency (EFA)**

If a complaint has completed the local procedures and the complainant remains dissatisfied, they have the right to refer their complaint to the EFA who will consider whether the complaint has been dealt with properly by the academy.

The EFA schools complaints form can be accessed from the following link:

<https://www.education.gov.uk/schools/leadership/schoolperformance/school-complaints-form>

The EFA will consider complaints about academies that fall into any of the following three areas:

1. where there is undue delay or the academy did not comply with its own complaints procedure when considering a complaint;
2. where the academy is in breach of its funding agreement with the Secretary of State; or
3. where an academy has failed to comply with any other legal obligation.

The EFA will consider whether the complaints policy and any other relevant statutory policies have been adhered to. The EFA will not overturn an academy's decision about a complaint; however, if it is found that an academy did not deal with a complaint properly then the EFA may request that the complaint is looked into again.

### **The HEART Education Trust**

Complaints Policy and Procedure

v 3.1

If legislative or policy breaches are found, the EFA will report them to the academy and where necessary, ask for corrective action to be taken.

## Annex 1 Complaint form

This is a Complaint Form intended to instigate Stage 2 of the Complaints Policy and Procedure, after attempts to resolve the concern informally under Stage 1 have not provided you with a resolution you consider satisfactory.

Stage 1 should only be omitted in **exceptional circumstances** (and in such cases the reasons why should be set out below). If the Trust does not consider that Stage 1 has been appropriately omitted, it reserves the right to refer your complaint back to that stage.

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

Your name:		Pupil's name:	
Address:		Your relationship to the pupil:	
		Daytime telephone number:	
		Evening telephone number:	
		Email address:	
<p>Please give concise details of your complaint.</p> <p>Please include, where possible, dates, names of witnesses, etc. as this will enable the Trust to properly investigate your complaint.</p>			
<p>What action, if any, have you already taken to try and resolve your complaint.</p> <p>(Who did you speak to and what was the response)?</p>			

If you have not taken such action, please set out here your reasons.	
What actions do you feel might resolve the problem at this stage?	
Are you attaching any paperwork? If so, please give details.	
Signed:	
Dated:	
<b><u>Official Use</u></b>	
Date acknowledgement sent:	
By whom:	
Complaint referred to:	
Date:	

## Annex 2 Example Rejection Letter

Dear

Following receipt of your communications and careful consideration of the same, I regret that I am unable to deal with this matter under the Trust's Complaints Policy and Procedure as:

*[Please select appropriate wording from the following:]*

- You have not identified any specific actions of which you might complain
- Your concerns are presented as conclusions rather than specific actions of which you complain.
- The concerns that you identify relate to historical actions and any evidence which might have enabled an objective investigation of your complaint is no longer available.
- The substance of your complaint has been addressed under this procedure already.
- The concerns that you raise do not fall within the scope of this procedure. [I have enclosed a copy of the [NAME] policy.]
- You have not identified any potential sources of evidence which might allow the matter to be investigated.
- The Trust offered to resolve the matter informally and in my judgement you refused unreasonably to take advantage of this.]

If you wish my decision to be reviewed then you may write to the Trust Operations Manager.

Yours sincerely,

[Name and Title of Complaint Handler]

### **Annex 3 The Remit of The Complaints Appeal Panel**

Any person sitting on a complaints appeal panel should bear the following in mind:

- a. It is important that the appeal hearing is independent and impartial and that it is seen to be so. No person 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, the person responsible for convening the panel must try to ensure that appropriate individuals are selected who are likely to be sensitive to the issues of race, gender and religious affiliation.
- b. The aim of the hearing, which needs to be held in private, will always be to resolve the complaint and achieve reconciliation between the Trust and the complainant. However, it has to be recognised 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 will satisfy the complainant that his or her complaint has been taken seriously.
- c. 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 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.
- d. 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.
- e. The persons sitting on the panel need to be aware of the Complaints Policy and Procedure.



## Annex 4 Complaints Procedure Summary Diagram

