



# Complaints Policy

## DETAILS OF POLICY

Original policy created by:	Andy Coates
Date of most recent review:	November 2020
Reason for review:	Update
Adopted by:	SLT
Parties communicated to:	All stakeholders
Methods of Communication:	School intranet, induction, website
Next planned review date:	November 2023
Persons responsible for audit review of policy:	SLT

## **Introduction**

The vast majority of complaints and concerns can be resolved informally.

Parents must feel able to raise concerns and complaints with members of staff at SwitchED2 without formality, either in person, by telephone or in writing.

At first it may be unclear whether a parent is asking a question or expressing an opinion rather than making an education complaint. A parent may want a preliminary discussion about an issue to help decide whether he or she wishes to take it further.

A concern or unresolved problem becomes a complaint only when the parent or carer asserts that SwitchED2 has acted wrongly in some significant decision, action or failure to take action.

Even when a complaint has been made it can be resolved or withdrawn at any stage.

## **Special Circumstances**

Any complaint or other notice that suggests that a child has been at risk of significant harm through violence, emotional abuse, sexual interference or neglect may be referred without further notice to Cumbria, Lancashire or North Yorkshire Social Services and/or to the social services authority for the area in which the child lives. If a social services authority decides to investigate a situation this may postpone or supersede investigation by the proprietor of SwitchED2.

## **Other Solutions to Complaints**

Where a matter can be resolved through a legal appeal it will not be considered as a formal complaint. The key areas are: admissions decisions; certain decisions relating to formal assessment of special educational needs; and decisions to permanently exclude a child. Detailed guidance on legal appeals is available from the parents' local authority on each of these matters.

## **Dealing with concerns informally**

The parent will be given an opportunity for discussion of their concern with the appropriate member of staff. An appointment may need to be made.

The parent is welcome to bring a friend to any discussion. The member of staff dealing with the concern will make sure that the parent is clear when action (if any) or monitoring of the situation has been agreed.

This stage should be completed speedily and concluded in writing with appropriate detail – copies sent to all parties.

Where no satisfactory solution has been found, the parent will be informed that s/he will need to consider whether to make a formal complaint in writing to the proprietor. To assist in this process a complaint forms is provided. A pro-forma can be found at the bottom of this policy.

## **Stage 1 – Referral to the Proprietor for investigation**

1.1 The proprietor will acknowledge the complaint in writing. In some cases the proprietor will have already been involved in looking at the matter; in others it will be his first involvement. If the proprietor is unsure whether the complaint launches any other procedure will seek advice.

1.2 The proprietor will consider providing an opportunity to meet with the complainant to supplement any information previously provided.

1.3 If the complaint is against a member of staff the proprietor will talk to the staff member against whom the complaint has been made.

1.4 If necessary, the proprietor will interview witnesses and take statements from those involved.

1.5 The proprietor will keep reasonable written records of meetings, telephone conversations and other documentation.

1.6 Once all the relevant facts have been established, the proprietor will produce a written response to the complainant. The proprietor may wish to meet the complainant to discuss/resolve the matter before confirming the outcome in writing.

1.7 The written response will include a full explanation of the decision and the reasons for it. Where appropriate, it will include what action SwitchED 2 will take to resolve the complaint. The complainant will also be advised that if they are not satisfied with the response and wish to take the matter further they should write to the local authority to which the student belongs.

1.8 Stage 1 should be completed in ten school days. However, it is recognised that this timetable is likely to prove impossible for complaints which are complex. In such cases, the proprietor will write to the parent giving a revised target date.

1.9 Schools will not pay financial compensation as a response to complaints, though may spend money on a relevant educational purpose (e.g. paying a fee for a repeat examination).

1.10 Complaints against the Proprietor- If the complaint is wholly or mainly about the proprietor the host LA will consider the complaint in accordance with Stage 2 of the procedure described below. However, before stage 2 is instigated the host LA will invite the proprietor to respond to the complaint in writing within ten school days. The host LA will send a copy of the proprietor's response to the complainant and the parent will be asked to indicate within five school days of receipt of the response whether they are satisfied with the response. If the parent is not satisfied with the response stage 2 should commence as described in paragraph 2.1 below.

## **Stage 2 – Consideration by the Host LA**

2.1 If the complainant decides to take the matter further, the host LA should write to the parent to acknowledge the complaint within two school days of receipt of the complaint. A copy of the acknowledgement and the complaints form should be sent to the proprietor.

2.2 Investigating the complaint – If the complaint has been investigated at Stage 1 the result of the investigation must be made available to the proprietor. However, where the complaint is against the proprietor and the complaint is referred to Stage 2, the host LA must decide, in consultation with the Chair of the Complaints Committee (see 2.3 below) whether and how the complaint should be investigated. Advice can be sought from the host LA and the time allowed to complete stage 2 must be borne in mind.

2.3 If the proprietor and/or the parent wish to call witnesses, the agreement of the Host LA should be obtained in advance of the meeting.

2.4 It is the responsibility of the Host LA to ensure that the meeting is properly conducted. However, the proceedings should be as informal as possible.

2.5 The aim of the meeting should be to resolve the complaint and achieve reconciliation between the school and the complainant. However, at the end of the meeting the Host LA will need to issue a finding in writing either upholding or not upholding the complaint or upholding some parts and not others.

2.6 If either party wishes to introduce previously undisclosed evidence or witnesses, it is in the interest of natural justice to adjourn the meeting so that the other side has time to respond to the new evidence. Late evidence of witnesses should not be accepted unless there is a good reason for the lateness.

2.7 The meeting should allow for:

- The parent to explain his or her complaint and the proprietor to explain the reasons for his or her decision;
- The proprietor to question the complainant about the complaint and the complainant to question the proprietor;
- Panel members to have an opportunity to question both the complainant and the proprietor;
- any party to have the right to bring witnesses (subject to the approval of the Host LA ) and all parties having the right to question all the witnesses.
- Final statement by the proprietor and parent.
- relating to the meeting will be all written documentation circulated to all parties.

2.8 The Host LA should explain to the parent and the proprietor that the Host LA will consider its decision, and a written response will be sent to both parties as soon as possible. The complainant, proprietor and any witnesses will then leave.

2.9 The Host LA will consider the complaint and all the evidence presented and reach a unanimous, or at least a majority, decision on the complaint. Where appropriate the Host LA can decide on the action to be taken to resolve the complaint and/or suggest recommended changes to the school's system or procedures to ensure that problems of a similar nature do not happen again.

2.10 As in Section 1.10 above, SwitchED2 will not pay financial compensation as a response to a complaint, though may spend money on an appropriate educational purpose.

2.11 The Clerk/Chair will send a written statement outlining the decision with reasons to both the complainant and the proprietor.

2.12 The complainant should be advised that if they are dissatisfied with the response they have the right to take the matter further by complaining to the Secretary of State for Education.

2.13 Stage 2 should be completed in 15 school days. However, it is recognised that this timetable is likely to improve impossible for complaints which are complex. In such cases the Host LA should write to the parent giving a revised target date.

2.14 In exceptional circumstances the Host LA may decide after taking advice not to proceed to consider the complaint on the grounds that the complaint has already been dealt with or is malicious.

### **Independent Panel**

In exceptional circumstances SwitchEd2 will utilise an independent panel to assess the nature of the complaint. Any written evidence will be circulated to all parties before the hearing. It may well be if the complainant is still not satisfied, he or she would be asked to put the complaint in writing formally to the governing body for consideration by The Independent panel. At this stage the complaint may well be different from the original complaint lodged, as it would include dissatisfaction with the action taken by SwitchED2 management to resolve the original complaint.

A committee of three Named Individuals, 2 from a Local Authority and 1 from Industry would be delegated the power to make a final decision on the complaint on behalf of SwitchED2. Members of the committee would have no previous involvement in the complaint.

These named individuals are to be confirmed.

This would mean that if the individual investigated a complaint at stage 2 they would be excluded from being on the committee at this stage, as would any individual if they had undertaken the investigation on behalf of SwitchED2. Although the committee's primary function is to decide on the merits or otherwise of the complaints, the panel will also play an important role in attempting a resolution of the complaint even at this stage. The panel would receive written evidence from the complainant on the complaint and from the Proprietor on what action has been taken to resolve the complaint.

That the outcome of any investigation by the Education Department will be submitted as part of the evidence either by the Proprietor or by the complainant.

The Host LA would hear evidence from witnesses from both sides relating specifically to the complaint and the action taken. The Host LA will be able to question the complainant, the Proprietor (both of whom would be entitled to be accompanied by a 'friend' who can speak on their behalf if necessary) and the witnesses; the Proprietor and complainant can also question each other and the witnesses.

A suggested procedure is set out below:

- Introduction by Host LA
- Complainant makes statement of complaint and outcome sought
- Questions to complainant by committee and Proprietor
- All parties hear and question witnesses called by complainant
- Proprietor makes statement
- Questions to Proprietor by committee and complainant
- All parties hear and question witnesses called by Proprietor
- Proprietor makes final statement
- Complainant makes final statement
- Host LA considers case in camera and reaches decision on whether the complaint is upheld or rejected and may call for certain action to be taken by the school or the parent and may make recommendations so that another instance of such type will be minimised if not totally eradicated. All findings will be reported and all individuals given a hard copy/and or electronic copy of any reports or recommendations that have been made. Any correspondence, statements and records of complaints will be kept confidential. Once this decision is reached it is final. It would not be possible or practicable to allow for an appeal to a second committee. Similar to all other types of parental grievance, where a parent remains dissatisfied with a decision of the committee, it would then be considered by an independent body. The further recourse for the complainant therefore, would be to the Secretary of State for Education on the grounds that the governing body has not discharged its duty properly or additionally, if they remain dissatisfied with the governing body' final decision, to the office of the Ombudsman. Detailed guidance on the practicalities of organising and conducting a complaints hearing will be made available to the Chair and members of the Complaints Committee.

### **Stage 3 – Complaint to the Secretary of State**

3.1 A stage 3 complaint must be submitted in writing to the Secretary of State for Education (either through the House of Commons or through the Department for Education). It is recommended that the complaint is in the form of a letter commencing with the following formulation:

“This letter is submitted as a formal complaint and request to you as Secretary of State for Education, to intervene using your powers under Section 496 and/or 497 of the Education Act 1996. Details of the complaint are set out below:”

3.2 The Secretary of State will conduct the investigations considered appropriate before setting out a response in writing.

3.3 If a complainant considers that the response of the Secretary of State is wrong in law or legally unreasonable, they may be able to challenge this by means of application to the High Court for Judicial Review. It is recommended that legal advice is sought prior to commencing such action.

School Complaint Form (for Stage 1 complaints)

If you have tried unsuccessfully to resolve your complaint with your child's school and wish to take the matter further, please complete this form and send it to the proprietor. (If your complaint is against the proprietor you will need to send the form to the Local Authority. A copy of the first two pages of the school complaints procedure is attached to this form. A copy of the complete procedure can be obtained from the school.

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Tel. no: (Home) \_\_\_\_\_

Tel. no: (Day) \_\_\_\_\_

Name of Child: \_\_\_\_\_

Date of birth of child: \_\_\_\_\_

What is your complaint about and what would you like the proprietor to do?

(continue on a separate sheet, if necessary)

When did you discuss your concern/complaint with the appropriate member of staff?

What was the result of the discussion?

(continue on a separate sheet, if necessary)

Signed: \_\_\_\_\_

Date: \_\_\_\_\_