



Making a complaint

A practical guide to parents' legal rights



What does it mean?

In this guide we use:

must when the law says something has to happen.

should when the government expects something to happen.

Other things you need to know

This booklet covers general complaints to schools. There are other procedures for the following types of complaint and appeal. These are all dealt with in other ACE publications. (See page 12.)

- Admissions
- Exclusions
- Disability discrimination
- Sex discrimination
- Race discrimination
- Curriculum issues

Child protection

If your complaint is about child abuse, you should ask to speak to the teacher who is responsible for child protection. In urgent cases go straight to Social Services or the police. Social Services are listed in your local phone book under your local authority.

Teachers

Complaints about individual teachers are generally taken through the school complaints procedure. If the school is a community or controlled school you may also complain to the local education authority which employs the teacher. In a few cases where you believe a teacher has not behaved properly you may complain to the General Teaching Council. (See page 11.)

School records

You and your child are entitled to a copy of their school record. The headteacher is responsible for the record. A complaint about a refusal to provide you with a copy or to correct the record could be taken to the Information Commissioner. (See page 11.)

Governing bodies

The governing body with the head has overall responsibility for the school. Parents are allowed to see a copy of the minutes and papers from governors' meetings except for confidential items.

Special educational needs

Some schools will have different ways for you to complain about the provision made for your child with special educational needs (SEN). This will usually be similar to the procedure described in this booklet so follow the advice that follows. If your child has a statement of SEN and you are unhappy about the way their extra help is given, you will generally complain to the local authority and then to the Ombudsman. (See page 10.) Appeals against decisions about extra help made by the local education authority are made to the SEN and Disability Tribunal. (See Page 11.)

Local authority

Education services of the local council are being merged with other children's services. The local authority must provide a mediation service in the case of parents' disputes about SEN. Ask your local SEN Department or Parent Partnership Officer.

I have a complaint about my child's school

Where do I start?

All schools by law have to have a complaints procedure and this should say how parents and others can make a complaint. Schools must also make sure parents know about the procedure and how to get a copy.

Step 1: get a copy of the school's complaints procedure

You may find information about how to get a copy in:

- the school prospectus
- the governors' annual report to parents
- the school's website
- the home-school agreement
- the school's newsletter
- posters round the school
- parents' noticeboard

The law on complaints procedures is new so if your school has not yet told parents about it, you may need to ask the headteacher, head of year, school governor or school secretary how to get a copy.

Step 2: decide who to speak to

Check whether your complaint is one of those listed on page 2. In these cases you should generally make an appeal, claim or complaint under one of the procedures described. The school complaints procedure covers all other general complaints. Some schools have a complaints co-ordinator who decides who will take up your complaint.

If your school does not have a complaints co-ordinator, you should generally begin with your child's class teacher or form teacher. Try to clear up the problem informally first of all with a member of staff.

If you are still not satisfied, you should approach the head of year or subject head (in a secondary school) or headteacher or deputy headteacher (in a primary school).

If your complaint is about the special educational help for your child, the school's special educational needs co-ordinator (SENCO) may be a useful person to start with. It is important that if your complaint is about any of these members of staff, someone else should deal with it.

If the complaint is about the headteacher, your complaint would be made to the Chair of the governing body.

If the complaint is about a school policy or the way a policy is carried out you may also need to complain to the governing body. School policies cover many issues including equal opportunities, special educational needs, bullying, discipline, charging, health and safety and homework. Every school must have a home-school agreement which says what the school expects of parents and what they will provide. Parents are entitled to copies of policies. If you have trouble getting a copy, write to the Chair of governors.

Step 3: ask for a meeting

Even with informal complaints it's best to ask for an appointment so you can talk over your problem when the member of staff has time to give it their full attention.

Prepare for the meeting by writing down:

- brief details of your complaint
- dates and times of what has happened so far and who you have spoken to
- what affect the problem is having on your child
- any details of school policies you think might help
- what you would like the school to do to put things right

Step 4: at the meeting

Take time to go carefully through all your points. It may help to give the teacher or Head a copy when you start. If there is something you do not understand or feel has not been fully dealt with, make a note to come back to it before the meeting ends. The teacher may provide new information which makes you feel differently about the problem. You may be able to provide information that helps the teacher deal with the problem.

The teacher may need to make further queries before deciding what to do. Make a note of the teacher's main points and any agreements. Ask for a further meeting so both sides can check that the problem has been sorted out.

ACE advises

1. Be tactful: plan the words you will use to explain the problem.
2. Try to show that you can see both sides of the situation but be sure to explain how your child feels.
3. Remember to praise any helpful action so far by the school.
4. Write down the points you want to make beforehand.
5. Count to 20 if things get heated. Sometimes silence can be as powerful as letting off steam.
6. Take a friend or partner along to take notes of the main points and any agreed future action.
7. Say how you would like the complaint dealt with. See page 8 for ideas about remedies.
8. Be open minded, but don't be fobbed off if you feel your complaint isn't being taken seriously.
9. Fix another meeting to review any action by the school.
10. End on a positive note by thanking the teacher for their time.

Step 5: taking it higher

If you are not happy with how your complaint is dealt with at the meeting, you will need to take the next step on the school complaints procedure. This is usually complaining to the Head or a senior teacher. Give the school a chance to look into your complaint and put things right before you do this. Check if there are time limits for taking your complaint to the next stage.

Step 6: putting your complaint in writing

It is a good idea to put your complaint in writing at this point. It will help you organise your thoughts and it may also show where more information might help you make your points. Some schools have forms for parents to write down their complaint. The model letter below gives you points to help you put your case, but only pick out those that fit your case.

Dear headteacher (*give their name*)

As a parent of XXX (*give child's name and class*), I am writing to make a formal complaint about... (*explain briefly why you are complaining. Give dates, times and place of any incidents or actions which you are complaining about*).

So far the following action has been taken... (*list any action taken by you or the school such as an investigation, if relevant*).

I am not happy with the action so far because... (*say if you think the action was wrong or not enough, or if there has been no action at all*).

My child feels... (*say what the affect has been on your child so far, if relevant*).

This can be supported by... (*say if a GP, youth worker, friend or other person can back up any of your points. Add any supporting letters or statements*).

School policies say... (*quote here from any policy which you think will help your case. See page 4 for details*).
Government guidance says... (*quote here from any guidance documents which you think will help your case. See page 9 for government website details*).

I would like you to put this matter right by... (*give ideas here for action to put right any wrong you or your child may have suffered. See page 8 for remedies*).

I would like to meet to discuss this if possible (*give times when you are available*).

Yours sincerely
(parent)

Step 7: meeting the governors

If you are still not happy after the headteacher has looked into your complaint, you will be able to make your complaint to the governing body. The complaints procedure should say who you should write to and you should send a letter as set out above. Although you could just complain in writing, it is usually better to put your case in person, so ask for a meeting, giving times when you are free to meet.

Before the meeting

Write or type out your points to read out at the meeting. Follow the list set out in the model letter and add any of your own.

Look through your points. Write down any questions to ask.

Collect up any extra materials (back up letters, statements from your child or others etc). Make an extra copy for the governors.

Think about taking a friend or adviser. This will usually be allowed, but check with the clerk first.

Who will be at the meeting ?

The meeting will be held in private. Generally a group of governors will form a panel to hear your complaint – none of them should have any involvement that could make them biased. The Government’s guidance suggests that a panel should consist of three or five people. In most cases there will be a clerk who is likely to be the person who can give you information before the meeting. The clerk will take notes for the governors at the meeting.

The headteacher or senior member of staff will put any points for the school. There may be witnesses for the school or witnesses who you may wish to bring along. The clerk should have asked you about this in advance. You may decide to bring your child to the meeting, or your child may be making the complaint themselves, perhaps with your help. Ask the clerk beforehand how the meeting will be run so you and your child know what to expect. You could decide that your child comes for just part of the meeting if you think this will be better.

How will the meeting be run?

Government guidance says the meeting should be as informal as possible, but it will be in everyone's interests if there are some rules to ensure fairness. The complaints procedure should explain these, but if it is not clear, ask the clerk. You need to know what order people will speak in. Will questions be allowed and at what point?

Government guidance says:

- each side should be given time to state their case and ask questions
- written material should be seen by all parties.
- if a new issue comes up, all parties should be given time to think about it and make any points.

What can the panel do?

The Government guidance recommends that the panel could:

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

You could ask the school to:

- apologise
- give an explanation
- admit that the situation could have been handled differently or better
- promise that the event complained of will not happen again
- explain the steps that have been taken to make sure that it will not happen again
- promise to review school policies in light of the complaint.

Step 8: the panel decides

The Chair of the panel should tell you of the panel's decision in writing. This is usually by a deadline which the complaints procedure sets out. The letter should tell you if you have any further rights of appeal and, if so, the person to write to.

Step 9: taking further action

With some school complaints procedures you may be able to take your case to the local education authority if you are not satisfied with the governing body decision. This is the case with curriculum complaints where you have a

legal right to make a complaint to the local authority for all types of maintained school.

If your school is a community or controlled school, the LA is the employer along with the governing body of school staff, so complaints about how a member of staff has acted can also be made to the LA.

Complaints to the Secretary of State

For all maintained schools, if you think you can show that the school has broken the law, or acted unreasonably, you can write to complain to the Secretary of State for Education. (*See model letter below.*) ‘Unreasonableness’ in the strict legal sense means the school’s action or decision was illogical. It may help to show that the school has not followed government guidance. Guidance covers most aspects of school life and can be found on the Department for Education website (www.dfes.gov.uk).

With any complaint to the Secretary of State you should include copies of any letters you have received from the school about the issue, a copy of the governing body’s decision and copies of any other letters between you and the LEA. Send any other letters or statements which you used to make your points to the governors. The Secretary of State can direct schools and local education authorities to take a particular action, although he does not often use these powers.

Write to the Secretary of State at:

Department for Education and Skills

Sanctuary Buildings

Great Smith Street

London SW1P 3BT

Dear Secretary of State

I am writing to complain that my child’s school and/or my LEA has behaved unreasonably and/or illegally in the case of the following complaint (*Describe your complaint and the action taken to sort it out.*)

I am asking you to use your powers under Sections 496 and/or 497 of the Education Act 1996 to direct the school/LEA as follows: (*say what you would like them to do to put the matter right*).

Complaints to the Ombudsman

If you are unhappy with the way a local authority (LA) has dealt with your complaint, the Ombudsman (*see page 11*) may consider complaints of maladministration or of unfair treatment and can make recommendations, for example that a new panel should rehear your case. Remember that the Ombudsman does not look at internal school matters and usually expects that a complaint is made locally before they will investigate. An ACE Parents' Guide, *Taking Matters Further*, gives more details about the Ombudsman.

Local authority support

It is always best to try to sort things out with the school. Check if your LA offers mediation services (*See page 2*). Sometimes an education welfare officer who works for the LA will try to help sort out disagreements, especially if your child has become reluctant to attend school. If your complaint is about special educational needs (SEN) the Parent Partnership Officer may be able to help. It may also be worth contacting an education psychologist at your LA for advice on bullying or SEN problems.

Step 10: can I take legal action?

You could ask a solicitor to write a letter of complaint. This could increase any bad feeling between you and the school but it might also show the school how seriously you take your complaint. In extreme cases, it may be necessary to take legal action to sort out a problem with a school. The Education Law Association has lists of solicitors with an interest in education law and Community Legal Services can point you to solicitors and advice organisations who can help with education law. (*See page 11.*)

Although it can be difficult to get public funding for legal cases, it may be possible for the case to be taken in your child's name so their means (income and/or capital) are taken into account rather than yours.

One of the most common types of action is judicial review when the courts will check the actions or decisions of a school and can make them reconsider these. Other cases which have been to court in the past have been to put right negligence, and race or sex discrimination. Another ACE publication, *Short Guide to the Law on Equal Opportunities*, covers discrimination.

For more help on complaints

Education Law Association – solicitors with an interest in education law:
01313 211570

Community Legal Services: publishes a directory which lists legal help
Directory line: 0845 602 1122 (www.justask.org.uk)

Commission for Racial Equality: 020 7939 0000 (www.CRE.gov.uk)

Disability Rights Commission: 08457 622 633 (www.drc-gb.org)

Equal Opportunities Commission: 0845 601 5901 (www.Eoc.org.uk)

General Teaching Council (England): publishes Complaining to the GTC –
information for parents and the public 0121 345 0065 (www.gtce.org.uk)

General Teaching Council (Wales): 4th Floor, Southgate House, Wood
Street, Cardiff, CF10 1EW 0292 0550 350 (www.gtcw.org.uk)

Ofsted takes general complaints about schools from parents, but not
complaints about individual cases. Helpdesk: 08456 404045

Information Commissioner: deals with complaints about records on
individuals: 01625 545 700 www.dataprotection.gov.uk

Local Government Ombudsman: investigates complaints about local
authorities in England: 0845 602 1983 (www.lgo.org.uk)

Local Government Ombudsman (Wales): investigates complaints about
local authorities in Wales 01656 661325

SEN and Disability Tribunal: appeals about decisions by the local authority
concerning special education 01325 392 555 and claims of disability
discrimination 01325 392 5750 (www.sendist.gov.uk)

SEN and Disability Tribunal Wales: appeals about decisions by the local
authority concerning special education and claims of disability
discrimination 01325 392 555

More help from ACE

ACE publications:

Taking Matters Further, parents' guide to law on complaints to schools, LEAs, the Ombudsman and the courts.

Developing a School Complaints Procedure, how to draw up a school complaints procedure.

Special Education Handbook, (includes SEN appeals)

Seven more guides in the My Child in School series:

Disability Discrimination: how to make a claim;

Appealing for a School: covering appeals for a school place;

Permanent Exclusion; Fixed Period Exclusion: both covering exclusion appeals;

Tackling Bullying: making a complaint about bullying in school

Getting Extra Help and Early Years Extra Help: raising SEN issues with a school/early years setting.

See ACE advice publications www.ace-ed.org.uk for details of how to order or phone 0207 704 3370 for a free publications list.

ACE advice line: 0808 8005793



Published by the Advisory Centre for Education,
1C Aberdeen Studios, 22 Highbury Grove, London N5 2DQ

© ACE 2007

Designed by Sally Doust. Illustration by Linda Scott.

Printed by Wyndeham Gait Ltd., Castle Press, Grimsby.