

Consultation: Complaints Procedures in Schools in Wales

Joint response from NAHT Cymru and ASCL Cymru

NAHT Cymru and ASCL Cymru are pleased to comment on the Consultation Document: Complaints Procedures for School Governing Bodies in Wales, as follows:

This is a very good review and overhaul of guidance and it will make for much more efficient policy and practice in schools.

We agree entirely that just adopting the guidance is not a policy and that schools need to use the guidance to create their own policy. The new draft guidance makes this point very clear which should help to avoid the sort of problems which have arisen all too frequently where both schools and local authorities have, in some instances, adopted the WAG guidance of 2004 as the policy. Needless to say, in practice, trying to use that document as a policy and a procedure has caused significant problems especially as it was never intended to be the definitive policy in itself.

There are, however, some points which we think could make the new guidance even more useful and we submit them as a positive contribution to that aim.

It should be explicitly stated that in rare cases some complaints and some complainants are vexatious and may even be part of a campaign. There should be specific guidance to help governors deal with that illegitimate scenario. For example, complaints which have no implication for even potential child protection and other criminal activity should not be considered years after the event, especially when the issues were not raised at the time or for years afterwards. It should be identified as an abuse of process for a trawl of parents and a series of anonymous or otherwise general complaints to be investigated where no evidence is supplied and where the allegations are lodged purely to attack individuals such as the head teacher or chair of governors. Addressing this particular problem is essential and critical to any new credible Complaints Procedure. It is essential to state that, other than for legal reasons, complaints should be time limited and that this concept should be built into the guidance. It would be beneficial to suggest a timescale which would normally be adhered to and which would be in a school's policy.

There should be a sanction or sufficiently significant consequence for a governing body which does not have a Complaints Policy which is compliant with statutory requirements, which is consistent with WAG guidance and which it does not follow.

2.4 - 2.7 We suggest adding: ***Having chosen to follow/use the School's Complaints Procedure and having completed it, GB's should not, unless for sound legal reasons and on legal advice, re-run the same issues under another procedure e.g. Disciplinary Procedure.***

2.9 Add '***or the complainant***' at the end of the paragraph

2.16 Add under point 4 '***or if the respondent is dissatisfied***'

2.18 Add new point '***any other relevant factual information***'

2.19 Add that ***information must be provided to enable a respondent to answer the allegations and make a case to defend herself/himself.***

2.20 Please add that ***failure to provide necessary detail may mean that the complaint cannot be investigated and that failure to comply with reasonable requests for information may also mean that a complaint cannot be investigated***

3.5 This should not be the whole GB, but a committee

3.12 The last bullet point should be '***In normal circumstances a complainant should inform the school eg 24 hours before the meeting if s/he is unable to attend***'. The guidance should also include guidance and pro-forma letters which support and enable governing bodies to send letters to complainants which can make clear that, ***having had the meeting re-scheduled, the governing***

body reserves the right to proceed if the complainant fails to turn up without good reason'. This principle is reasonable to incorporate into school policies.

3.14 It is essential that the list should include those asked to investigate complaints on behalf of the school or governing body;

3.17 Collaboration between Maintained Schools to form joint committees to consider matters such as complaints is useful, and could be used in exceptional circumstances. However, if it is an amalgam of two or more governing bodies, which procedure is to be used given that each school will have a policy and they are rarely identical? The guidance should recommend a process whereby the policy and procedure to be followed is clearly agreed and known to all;

3.18 From experience, we know that some circumstances mean that the committee hearing a complaint should meet both the complainant and the respondent separately, usually due to a history of aggression and threat or similar circumstances and also in other exceptional circumstances e.g. a relative of a deceased governor who blames the head teacher for the death. We request that the guidance enables the complaints committee to meet both the complainant and respondent separately;

3.19 It should be stated that people must behave reasonably and speak courteously. They should stick to the facts. No personal abuse or attack will be allowed and the meeting will close along with the complaint process if people do not co-operate and behave reasonably;

The current situation does not provide sufficient safeguard against bad practice when governing bodies are considering complaints, and nor does it safeguard against vexatious and persistent complainants who do bring head teachers and schools 'to their knees' by relentless bombardment and unreasonable demand. It would be not only helpful but essential to include some guidance for such circumstances which, whilst not frequent, are more common and destructive than might be realised;

3.26 LA's are reluctant to use the powers of intervention and do not seem to understand that the criteria for intervention are not as restrictive as they appear. Therefore, more guidance on this point would be beneficial;

3.33 The exception which should be included in this point is where there are any reasons related to CP or other criminal matters.

Section 5 Role of the LA

This section should make clear that LA's can and should intervene and review procedures whenever asked to do so. It should also be clear that either the complainant or the respondent can require a review of the procedures used to consider a complaint and that a LA must comply. It would also be useful to set out what a review includes i.e. a number of criteria;

5.5 Add or there is clear evidence of taint in procedures or those investigating or making decisions Criteria need to be amended to make the powers clearly relevant to dysfunction in the governing body.

Annex 1

2.8 Vexatious complaints and complainants should be specified, as should complaints which have already been considered.

2.10 Add: The GB may also take legal advice and in exceptional circumstances may have to take legal action/seek a judicial remedy.

Page 31 under privacy, the wording should be amended to read 'has a right to be made aware of the concern or complaint....'

We look forward to the final guidance and to improved practice in all our schools in Wales on a fair and reasonable basis.

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