

APPENDIX A

NEWPORT CITY COUNCIL

THE GOVERNING BODY OF Ysgol Gymraeg Ifor Hael

1. INTRODUCTION – The role of the Complaints Procedure

- 1.1 Section 29 of the Education Act 2002 requires the governing bodies of all maintained schools in Wales to establish procedures for dealing with complaints from parents, pupils, members of staff, governors, members of the community and others. This includes complaints about the school and any community facilities or services. The law also requires governing bodies to publish their complaints procedure.
- 1.2 There are separate and established procedures already in existence for some complaints. This procedure should NOT be used for complaints relating to:
- Curriculum
 - Special Educational Needs (SEN)
 - Religious Worship
 - Admissions
 - Exclusions
 - Staff Grievance
 - Teacher Capability
 - Staff Disciplinary
 - Child Protection Procedure

For further information on these procedures see www.learning.wales.gov.uk

- 1.3 This complaints procedure is a way of ensuring that anyone with an interest in the school (parents, members of staff, governors, pupils, members of the local community and others) can raise a concern, with confidence that it will be heard and if well founded, addressed in an appropriate and timely fashion.
- 1.4 It provides a clear and straightforward procedure where school staff and governors are clear about their roles and responsibilities in responding to complaints.
- 1.5 By incorporating the essential element of record keeping, the progress of the complaint can be easily tracked. This can also assist the school in defending its actions if the complainant has recourse to an external body and enables schools to learn from issues raised and improve.
- 1.6 The procedure acknowledges that by treating all complaints seriously and responding to them quickly they can often be resolved at the earliest stage.
- 1.7 It is a statutory requirement for the governing body to have a complaints policy, but that does not mean that the process should be overly formal or bureaucratic. Most cases should be dealt with at Stage One.

2. PRINCIPLES

The governing body is committed to the following principles for dealing with complaints in this procedure.

2.1 Impartiality and fairness

The Complaints procedure will be applied consistently and with fairness to all parties.

At stage one it is possible that the person dealing with the complaint may have had prior involvement or interest in the matter. At Stage Two or Three, however, all persons dealing with the complaint will be impartial and have had no prior involvement or interest in the matter.

2.2 Investigating complaints

At each stage, the person dealing with the complaint will

- Establish what has happened so far, and who has been involved
- Clarify the nature of the complaint and what remains unresolved
- Meet with the complainant or contact them if unsure or if further information is needed
- Clarify what the Complainant feels would put things right
- Talk to those involved, talk to those complained about (allowing them to have a friend present if they wish)
- Approach matters with an open mind
- Keep records

2.3 Handling Information

All complaints will be kept confidential, with only those involved in investigating and making a decision being made aware of the details of the complaint.

The person who is being complained about will also be entitled to know the substance of the complaint against them. The governing body has discretion to withhold information when there is sufficient reason, such as:

- Where there is a need to protect a source
- Where there is a legal reason why the information should not be released
- To meet data protection requirements

2.4 Complaints involving pupils

Pupils can become involved in the process by either making a complaint, being the subject of a complaint, or as a witness. The governing body will carefully handle complaints involving pupils and at each stage the pupil concerned may be accompanied by his or her parent / guardian or an adult of the pupil's choice.

Pupils may provide evidence but this will be done voluntarily and with parents' consent for those under the age of 16. The governing body will ensure that appropriate techniques are used to hear evidence from a child witness to ensure that the child's view is properly heard.

(Separate WAG guidance deals with specific arrangements for dealing with complaints involving pupils, including the support that will need to be given to pupils and advocacy arrangements (this is yet to be published.)

2.5 Timing

The governing body will make every effort to investigate complaints quickly to avoid the stress that unnecessary delay causes. It is committed to keeping all parties informed throughout the process and may issue a timetable of events for all to be aware of what will happen and when.

The word “usually” sometimes appears alongside the number of school days that would be reasonable for each stage. In some situations the timeframe might be changed with the agreement of the parties as some cases may take longer due to their complexity or the absence of key parties due to ill health, etc.. Notification of delay should be in writing with an explanation of the reasons.

Where a complaint is made shortly before a school holiday (not half term or occasional days) the governing body will make every effort to resolve it before the school closes.

2.6 Anonymous Complaints

The governing body will deal with anonymous complaints as follows:

- If the complaint concerns alleged criminal conduct or is a child protection issue, it should be treated as explained at 5.8.
- In other cases, the person receiving the complaint will make a judgement as to whether it should be investigated.
- Details of anonymous complaints will be recorded and included in any report or analysis concerning complaints

2.7 Withdrawal of complaints

Withdrawn complaints will be recorded by the recipient and acknowledged by letter.

2.8 Roles and Responsibilities

All parties are expected to behave reasonably and to treat the process and parties involved with respect. An example of this would be ensuring that everyone is made aware of meeting dates. The governing body may allow adjournment of a meeting or hearing on request if the timing is inconvenient, however, last minute cancellation or attempts to thwart the process by repeatedly failing to agree dates will not be allowed.

The Complainant and the person(s) against whom the complaint is made, may be accompanied by a friend, advocate, union representative, colleague, parent or other person at each stage.

2.9 Recording Complaints

An appropriate record of all complaints, including anonymous and withdrawn complaints, will be kept for the following reasons:

- To monitor the progress of a complaint;
- To provide evidence that the complaint was considered and of the outcome;
- 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.

The record will also show where the process has been reviewed by the LEA and/or Diocesan Authority, and /or the Welsh Assembly Government and will include any documentation relating to those reviews. Anonymous or withdrawn complaints, or complaints regarded as being of a vexatious, frivolous or malicious nature will be recorded as follows:

- Description of the complaint
- Whether the complaint was investigated or just recorded
- The outcome of any investigation
- Any issues for action by the school and the lead member of staff

Subject to compliance with the Data Protection Act, the records will be made available to the LEA and/or Diocesan Authority for inspection and also in the course of an inspection of the School.

Records of complaints will be kept for three school years including the year in which the complaint was finalised.

2.10 Reporting and Monitoring Complaints

Reports summarising key trends and issues on complaints will be made to the governing body at least twice a year in order to monitor the number and subject of complaints, to identify any trends or areas of concern and make recommendations for action.

The Headteacher/complaints officer will be responsible for compiling and tabling reports to the governing body.

The report (or a summary) will also be presented to the school council and to parents and a summary will be included in the annual report to parents.

3. GENERAL COMPLAINTS ABOUT THE SCHOOL

In line with The Welsh Assembly Government recommendation, there is a three stage procedure to deal with complaints, as outlined below:-

THREE STAGES

3.1 Stage One - Complaint raised with (and resolved by) the first recipient within the School

The complaint may be made orally or in writing. It can be made to:

- A member of staff
- Head of year
- Headteacher
- Designated Complaints Officer (if provided)

Where possible, the first recipient and the Complainant should make every effort to resolve complaints at this stage. The Complainant should be given the opportunity to meet the member of staff with whom they have raised the matter/complaints officer usually within 10 school days. This is to ensure that a decision is reached and conveyed to the complainant.

If the complaint cannot be resolved to the satisfaction of the Complainant, the member of staff should inform the Complainant, orally or in writing, that they are entitled to take the complaint to the Headteacher. The Complainant should be provided with a copy of the school's complaints procedure if they have not already been given a copy.

If the Headteacher is the first recipient of a complaint, he or she can decide whether to delegate consideration to another member of staff under Stage One or to proceed to Stage Two

3.1.1 Stage One - Record Keeping

Records to be kept at this stage will include:-

- Name and address of the Complainant
- Date of receipt of the complaint
- Brief Description of the complaint
- Action taken to resolve the complaint and outcome
- Issues for action by the school and lead member of staff

3.2 Stage Two – Consideration by the Headteacher

The complaint will not normally move to Stage Two until it has first been considered under Stage One. The matter might proceed immediately to Stage Two if the Headteacher thinks it is appropriate. At this stage the Complainant should be encouraged to put the complaint in writing so that its substance is clear. If this is not possible, then arrangements will be made for the complainant to convey their complaint by another method e.g. by arranging for it to be dictated and signed.

On receipt, the Headteacher will acknowledge the complaint in writing, enclosing a copy of the complaints procedure and giving a target date for providing a response. This will usually be within 10 school days. If this is not possible, the Complainant will be informed when consideration of the matter is to be concluded.

The Complainant will be given the opportunity to meet with the Headteacher. Interpretation facilities or assistance for disabled persons should be made available. The Complainant may be accompanied by a relative or friend either for support or to speak on their behalf. The Headteacher may have another person present to witness the discussion.

Written notes of interviews, telephone conversations and other actions should be made. The Headteacher should convey his or her decision in writing to the complainant.

3.2.1 Stage Two – Record Keeping

Records to be kept at this stage will include:-

- Name and address of the Complainant
- Date and details of the complaint
- Action taken to resolve the complaint and a written record of discussions, interviews, telephone conversations and evidence collated
- Outcome
- Date of notification to complainant
- Issues for action by the school and lead member of staff

3.3 Stage Three – Consideration by the Governing Body

If the Complainant is not satisfied with the outcome of Stage 2, the governing body may then consider the matter. It will ensure that Stage One and Stage Two have been exhausted before considering the matter or that there are special reasons for not following Stage One and Stage Two.

The Governing Body will establish a Complaints Committee (*and Complaints Appeal Committee*) at the Annual General Meeting each year. The membership of the committee will be checked before each hearing to ensure that no member has had perceived or actual involvement in the matter or that no member has any personal links with either the complainant or the person against whom the complaint has been made. If there is any doubt about a person's ability to act impartially or fairly or there may be a conflict or potential conflict of interest, the governing body has final decision whether that person should be a member of the committee or any appeal committee. Substitute members may be appointed as necessary.

The chairperson of governors will ask the clerk to the governing body to acknowledge receipt of the complaint, usually within 5 working days. The Clerk should make arrangements for the complaints committee to meet to hear the complaint usually within 15 school days of the date of receipt of the complaint. The Clerk will check to make sure that all parties are available to attend.

The **letter of acknowledgement** should set out a timetable and make clear:

- all parties are entitled to provide evidence / written documentation that they wish the committee to consider;
- the date by which such written evidence should be provided;
- the date by which documents will be forwarded to the person complained about;
- the date that the person complained about must return their response (usually within 10 school days to allow them time to consider all the evidence and take advice);
- the date that the response will be made available to the complainant; and
- the date of the hearing (if available at this point)

The Chair of the Committee will ensure that all parties are given at least 5 school days notice of the date of the meeting in writing.

The letter **arranging the Complaints Committee hearing** should include:

- the time and place of the hearing;
- the grounds for the complaint, with copies of all relevant documents;
- the right of all parties to be accompanied or represented by a person of their choice;
- details of those attending and their respective role;
- the committee's right to proceed with an oral hearing in the absence of either or both parties, if no good reason is given why they should not do so; and
- the entitlement of the parties to request an adjournment if there is a good reason why they cannot attend.

Stage Three – Complaints Hearing Procedure

The Purpose of the hearing is to enable members of the committee to clarify facts and ascertain whether there are grounds for upholding the complaint.

The chairperson of the committee should play a central part in setting the tone for the meeting. (S)He should ensure that the issues are addressed and key facts are made, whilst also ensuring that the meeting is conducted in an informal manner with each party treating the other with courtesy, also that persons are put at ease and allowed to put their case without undue interruption

The proceedings for the committee hearing should be as follows:

- The chairperson to introduce all persons present and explain their role;
- The Complainant (or their Representative) is invited by the chairperson to explain their complaint;
- The Complainant may call his/her witness/es to give their evidence;
- The Complainant sums up his/her complaint;
- The committee members may ask questions of the complainant;
- The Headteacher or other appropriate witness is invited to explain the school's action.
- Any witnesses for the school may be called to give evidence
- The Headteacher should sum up the school's actions and its response to the complaint.

- The committee members may ask questions of the Headteacher;
- The Chair of the Committee informs both parties that they will hear from the committee in writing, usually within 5 school days.
- Both parties and all witnesses leave whilst the Committee discusses and makes a decision on the matter.
- The Clerk will remain with the committee.
- The Complaints Committee should consider its decision in private. Before doing so, it can take advice from advisers i.e. Representatives of the LEA, diocesan authority or other relevant body. Such advisers should leave once their advice has been given

3.5 Stage Three – The Decision

The Committee should base its decision upon the following:

- the evidence;
- whether the headteacher or others have complied with the school's complaints procedure;
- whether there is substance to the complaint.

The decision should be made by majority agreement with a second or casting vote from the chair as necessary. The **decision** needs to cover:

- whether or not the complaint is upheld;
- any action to be taken by the governing body, Headteacher and/or members of staff in light of the decision;
- any recommendations for changes to school policies or procedures to ensure similar problems do not arise in future.

The decision will be sent to all parties usually within 5 school days of the hearing. At this stage all parties should have an understanding of the reasons for the decision and be satisfied that, even if they have not been successful, the hearing has been fair.

If the complaints policy allows for an appeal stage, the letter informing of the decision should also include:

- *the right to appeal, together with the address of the person to whom any notice should be sent (normally the clerk to the governing body);*
- *the date by which any notice of appeal needs to be lodged (usually 15 school days after the day on which notice was given of the decision);*
- *the grounds on which the appeal is made.*

If there is no appeal stage, the letter to explain that the LEA, the diocesan authority or Welsh Assembly may review the procedures but not the decision.

(3.6 SHOWN IN ITALICS IS OPTIONAL AND DEPENDENT UPON WHETHER OR NOT THE GOVERNING BODY CHOOSE TO ESTABLISH A COMPLAINTS APPEAL COMMITTEE)

3.6 Stage Three – Complaints Appeal

The Complaints Appeals Committee will rehear the complaint using the same procedures as above (3.4& 3.5) and usually no later than 15 school days after the day on which the appeal was lodged. All written evidence to be circulated to all parties usually 5 school days before the hearing including the following information:

- *The statement of decision by the Complaints Committee;*
- *The notice of appeal containing the grounds for appeal;*
- *Any written representations from any party.*

3.6/7 Stage Three – Record Keeping

Records to be kept at this stage will include:-

- a full account of the proceedings of the Complaints Committee and any appeal committee, evidence presented and all other relevant documentation;
- decision reached and any action to be taken by the school, Headteacher, governing body or member of school;
- date of the decision and date the decision letter was sent to the complainant.

4. FINALISATION OF A COMPLAINT

If, at the end of Stage Three, the complaint is not upheld, the **decision letter** should make clear:

- that the complaint has been thoroughly investigated;
- the governing body and the Headteacher will not re-open the matter;
- any new issues will not mean re-opening an already determined complaint;
- if new issues arise these will be treated as a new complaint but only if they are demonstrably different from matters raised under a previous complaint.

5. IF THE COMPLAINT CONCERNS....

There could be cases where the principles of this policy apply, but the complaint does not lend itself to the above approach, in these cases the following will apply:

5.1 IF THE COMPLAINT CONCERNS....The Headteacher –

If the complaint is about the Headteacher, the recipient will refer it to the chairperson of governors. The chairperson will check that the matter is properly for consideration under this policy.

The chairperson may choose to investigate the complaint him/herself or delegate investigation of the complaint to the vice chair or other designated governor. He or she may delegate the investigation, for example, if they have had prior involvement in the matter. Whichever governor carries out the investigation cannot then be a member of the Complaints Committee. The investigating governor should declare any potential conflict of interest.

The complaint should be in writing. If this is difficult for the Complainant, then opportunity should be given to allow the Complainant to convey their complaint by another method e.g. by arranging for it to be dictated and signed.

The chairperson, or investigating governor, will acknowledge receipt of the complaint in writing, usually within 5 school days, enclosing a copy of the complaints procedure and giving a target date for a response to be given. If it is not possible to deal with the matter within this time, the complainant will be informed and given a date by which to expect the matter to be concluded.

The Complainant will be given the opportunity to meet with the chairperson or investigating governor. Interpretation facilities or assistance for disabled persons should be made available, if necessary. The Complainant may wish to be accompanied by a relative or friend. The chairperson or investigating governor may wish to have another person present to witness the discussion.

The Chairman or investigating governor should convey his or her decision in writing to the Complainant. If the Complainant is not happy with the outcome then he/she will be advised to write to:

- The vice chairperson – if the chairperson carried out the investigation, or
- The chairperson – if the vice chairperson or another delegated governor carried out the investigation

who will refer the matter to the Chair of the Complaints Committee for consideration in accordance with Stage Three.

Record Keeping - Complaint against a Headteacher

Records to be kept at this stage will include:-

- name and address of the Complainant
- date and details of the complaint
- action taken to resolve the complaint and a written record of discussions, interviews and evidence collated
- outcome
- date of notification to Complainant
- issues for action by the school and lead member of staff

5.2 IF THE COMPLAINT CONCERNS....The Complaints Officer

If the Headteacher has assigned a member of staff as a Complaints Officer to deal with complaints at Stage One and the complaint concerns the Complaints Officer, the complaint will be passed to the Headteacher.

The Headteacher shall decide whether to delegate the investigation to another senior member of staff to investigate under Stage One or to investigate it him/herself under Stage Two.

If the Complainant is not happy with the outcome he/she should be advised to write formally to the chair of governors in accordance with Stage Three.

5.3 IF THE COMPLAINT CONCERNS....The Chair of Governors

Any complaint against the chair of governors will be sent to the vice chair who should immediately inform the headteacher, the LEA (and, where appropriate, the Diocesan authority). The vice-chair will:

- check whether or not the matter should be dealt with under this complaints procedure or whether the matter needs to be referred to another authority such as the police or social services;
- consider whether to obtain advice from the LEA (or Diocesan authority if appropriate).

The vice chair of governors may choose to investigate the complaint him/herself or delegate investigation to another designated governor. Alternatively, the vice chair may refer the matter directly to the Complaints Committee, who will proceed to Stage Three.

The matter should not be taken to the governing body's attention until it has been determined by the complaints committee and any appeal committee.

The complaint should be in writing. If this is difficult for the Complainant, arrangements should be made for the Complainant to convey their complaint by another method e.g. by arranging for it to be dictated and signed.

The chairperson, or investigating governor, will acknowledge receipt of the complaint in writing and usually within 5 school days, enclosing a copy of the complaints procedure and giving a target date for a response to be given. If it is not possible to deal with the matter within this time, the complainant will be informed and given a date by which to expect the matter to be concluded.

The Complainant will be given the opportunity to meet with the chairperson or investigating governor. Interpretation facilities or assistance for disabled persons should be made available, if necessary. The Complainant may wish to be accompanied by a relative or friend. The chairperson or investigating governor may wish to have another person present to witness the discussion.

The Chairman or investigating governor will convey his or her decision in writing to the Complainant.

5.4 IF THE COMPLAINT CONCERNS....The Headteacher and the Chair of Governors

Complaints against the headteacher and chairperson of governors should be sent to the vice chairperson who will inform the LEA (and, if applicable, the Diocesan Authority). The vice chair will:

- check whether or not the matter should be dealt with under this complaints procedure or referred to another authority such as the police or social services
- consider whether to obtain advice from the LEA or Diocesan authority.

The vice chairperson may choose to investigate the complaint him/herself, or delegate investigation to another designated governor should there be a conflict of interest, either would be under Stage Two of the policy. Alternatively, the vice chairperson may refer the matter directly to the Complaints Committee and the

Chairperson of the Complaints Committee should then proceed in line with Stage Three.

5.5 IF THE COMPLAINT CONCERNS...The Chair and Vice Chair

Any complaint about the chairperson and vice chairperson should be referred to the clerk to the governing body who will refer the matter to the chairperson of the complaints committee. The chairperson of the committee will seek advice from the LEA (and, if appropriate, the Diocesan Authority) and arrange for the complaint to be heard by the complaints committee in accordance with Stage Three.

If the chairperson of the Complaints Committee is the chairperson or vice chairperson of governors, a new chairperson and reserve member(s) will be appointed.

Where the policy allows for a complaints appeal committee, the above paragraph to be deleted and replaced by the following paragraph.

If the chairperson of the Complaints Committee is the chairperson or vice chairperson of governors, the complaint should be referred the chair of the complaints appeal committee who will become the chair of the complaints committee for this particular case. The Complaints appeal committee would then need a new chairperson. If the posts of chair of the complaints committee and chair of the complaints appeals committee are held by the chair and vice chair of the governing body, then both committees will need to appoint a new chair.

5.6 IF THE COMPLAINT CONCERNS...A Governor (including the Vice Chair) or a Group of Governors

If the complaint is against the actions of a governor or a group of governors, it should be referred to the chairperson of the governing body who will deal with it in the same way as if the complaint had been made against the Headteacher. If the chairperson is involved as part of the group being complained about, the complaint should be sent to the vice chair, providing (s)he is not also part of the group.

If the chairperson and vice chairperson are both involved as part of the group being complained about, the complaint should be given to the clerk to the governing body who will forward the complaint to the chairperson of the complaints committee for action under Stage Three. If the chairperson of the complaints committee is the chairperson or vice chairperson, the committee will appoint a replacement chairperson.

Where the policy allows for a complaints appeal panel the following paragraph applies:

If the chairperson of the complaints committee is the chairperson or vice chairperson, the Clerk should refer it to the chairperson of the complaints appeals committee who will then become the chair of the complaints committee for that case.

If the matter proceeds to Stage Three, care will be taken to make sure that the members of the complaints committee can be seen to be impartial.

If the number of governors who are subject of the complaint result in there being too few governors to form a Complaints Committee, then the procedure for complaints against a whole governing body will be used.

5.7 IF THE COMPLAINT CONCERNS.... The Whole Governing Body

Any complaint against the actions of a whole governing body should be sent to the Clerk to the governing body who will immediately inform the headteacher, chairperson, the LEA and, as appropriate, the diocesan authority.

The LEA will then consider whether the matter is causing such concern that it can issue a warning notice to the governing body in accordance with its powers of intervention. *(See Section 15 of the School Standards and Framework Act 1998 as amended by the Section 55 of the Education Act 2002).*

If this is not necessary, then the LEA, (and/or if appropriate the Diocesan Authority) will seek the agreement of the governing body to have the complaint heard by a specially constituted and independent committee.

If the LEA (and/or the Diocesan authority) decides not to take any action, the clerk to the governing body will inform the Complainant that the matter will be raised at the next meeting of the governing body. The clerk and the chairperson can arrange a special meeting to consider the matter, if the next meeting is some time away.

The Complainant may be informed of the proposed action, date and time of the governing body meeting. (S)He will be allowed the same opportunity to give written and oral evidence as (s)he would have been given if the matter had been dealt with by the complaints committee.

The governing body may look at evidence and arrive at a decision in the same way that its complaints committee would. The clerk may then send the following information to the Complainant:

- the decision and an explanation of the reasons for the decision
- an explanation that if the Complainant remains dissatisfied, he or she can ask the LEA, (Diocese , if appropriate) or the Welsh Assembly Government to review the procedure used by the governing body to deal with the complaint **but** not the decision.

5.8 IF THE COMPLAINT CONCERNS....Alleged Criminal Activity

5.8.1 CRIMINAL OR FINANCIAL

If the complaint relates to criminal or alleged criminal activity, the recipient will immediately refer the matter to the Headteacher. If the headteacher is the subject of the allegation, the complaint should be referred to the chairperson of governors who will, without delay, inform the relevant authorities i.e. Police, and/or District Audit, the LEA and if applicable the Diocesan Authority. If the complaint involves both the headteacher and the chairperson of governors, the complaint will be forwarded to the vice chairperson.

If the complaint of alleged criminal activity against the headteacher and the chairperson of governors concerns financial issues, the complaint will be referred

to the vice chair and/or the chairperson of the finance committee (provided they are not the subject of the allegation), who should contact the LEA, the relevant authorities, and if applicable the diocese.

If the above are collectively included in the allegation and there is no other suitable governor available to accept the complaint, the Complainant will be advised to send their complaint to the clerk to the governing body who will refer the matter to the LEA (and if appropriate the Diocesan authority).

5.8.2 CHILD PROTECTION

If the complaint involves or appears to involve a child protection issue, the recipient will refer it to the designated child protection teacher. If the designated child protection teacher is the subject of the allegation, the matter will be referred to the Headteacher.

If the Headteacher is the designated child protection teacher and is the subject of the complaint, the complainant should be referred to the chairperson of governors, who should immediately inform the LEA. (See also www.learning.wales.gov.uk for current guidance.)

6. SETTING UP A GOVERNING BODY COMPLAINTS COMMITTEE AND COMPLAINTS APPEALS COMMITTEE

6.1 Complaints Committee

The governing body will establish a Complaints Committee every year at the Annual General Meeting, in line with Regulation 46 of the Education (School Governance)(Wales) Regulations 1999(as amended) and the NAW Circular 03/2004.

The Committee will consist of three/five members.

6.2 Complaints Appeal Committee (this paragraph is optional)

The governing body will establish a Complaints Appeal Committee every year at the Annual General Meeting, in line with Regulation 46 of the Education (School Governance)(Wales) Regulations 1999(as amended) and the NAW Circular 03/2004.

The Committee will consist of three/five members (a number in excess of the first committee).

7. ROLES AND RESPONSIBILITIES

7.1 Governing Body

The headteacher and the governing body both have a role in hearing complaints, adjudicating and deciding on the action to be taken. The ultimate responsibility, however, lies with the governing body who can overrule the action of the headteacher.

In cases to be dealt with in the procedures outlined, no individual or organisation can overrule the decision of the governing body, its decision can, however, be overruled if the matter considered comes under other statutory processes for complaints not

administered by the governing body e.g. curriculum, SEN, religious worship, admissions, exclusions, admissions. The Courts may uphold a challenge to a governing body decision-making process. The Welsh Assembly Government may also issue a direction to the governing body if it has acted unreasonably or failed to comply with its duty.

7.2 Local Education Authority/ Diocesan Authority

The LEA and Diocesan Authorities do not have a statutory role in resolving complaints about schools – the statutory responsibility rests with the governing body.

The governing body may ask the LEA (or in the case of a voluntary aided school the Diocesan Authority) for assistance to investigate a complaint; advice on handling; or advice on the response.

This paragraph is optional:

The LEA (or the Diocesan Authority, if appropriate) may review the procedure used to reach a decision, not to review the decision itself or to act as an appeal mechanism. If the LEA (or Diocesan Authority) concludes that the process followed was deficient, it may ask the governing body to reconsider the matter with a committee of different membership from the original complaints (and complaints appeal) committee. The LEA or Diocesan Authority (as expected by the WAG) will keep the school informed of the progress of any review and will, at the end of the process, provide copies of documentation, including the decision and documents relating to any actions taken, to the school for the school's records.

7.3 Welsh Assembly Government (WAG)

If the Welsh Assembly Government is the first recipient of a complaint about a school and it is not a matter for the statutory authorities, it will advise the complainant to raise the matter with the school under its complaints procedure.

If a complainant is dissatisfied about the procedures used by a governing body to address a complaint, (s)he can ask the Welsh Assembly Government to consider its actions. If the Minister concludes that a governing body has acted unreasonably* or has failed to carry out a statutory duty under education law (which would include failure to deal with a complaint), the Assembly Government can issue a direction to the governing body requiring it to reconsider the matter, consider it for the first time if it has failed to do so, or to amend its process to ensure it does not happen again.

(*“unreasonable” has been defined by the Courts as action that no sensible authority acting with due appreciation of its responsibilities would have decided to adopt)

7.4 Children's Commissioner

The Children's Commissioner for Wales has a statutory remit covering all children in Wales, which embraces the actions of the Welsh Assembly Government, LEAs and Schools.

The Commissioner may:

- provide advice, assistance, information and support to children in making a complaint or representation;

- review and monitor arrangements made for dealing with complaints, whistleblowing and advocacy, or the absence of such arrangements;
- investigate individual cases submitted to him.

In reviewing complaints processes, the Commissioner's role is to make sure that they are working effectively and enable children and young people to exercise their rights. The Commissioner may serve notice on the body or person to be reviewed and has a statutory power to require information from teachers, school governors, local authority officers and members. The Commissioner may produce reports which contain recommendations. He has no statutory power to require their implementation but can publicise any failure to do so.

In individual case, The Commissioner has a statutory right to require information, explanations and assistance in relation to action taken in response to a complaint. He does not take the place of existing procedures nor act as an avenue for appeal.

7.5 Commissioner for Local Administration in Wales (also known as Local Government Ombudsman)

Currently, most of the responsibilities of school governing bodies fall outside the remit of the Commissioner for Local Administration in Wales (CLAW). The only exception being schools admissions appeals.

7.6 General Teaching Council for Wales (GTCW)

The GTCW (the statutory, self-regulating professional body for teachers in Wales) has a responsibility for investigating and hearing cases of unacceptable professional conduct or serious professional incompetence concerning a registered teacher or cases where a registered teacher has been convicted (at any time) of a relevant offence).

The governing body and LEA, as they are required to do, will report cases to the Assembly or the GTCW where they "cease to use" or "might have ceased to use" a registered teacher's services had he or she not resigned.

The GTCW may also consider referrals about a registered teacher from a person other than a governing body or LEA, for example a pupil, parent or fellow teacher. In such circumstances, the GTCW will ask whether the complainant has reported the allegation to the school governing body or LEA and, if so, what the outcome was. If the complainant has not reported the allegations to the school governing body or the LEA, the GTCW will ask for the reasons why this has not been done. The GTCW will not normally investigate an allegation that has not been referred to a school governing body.

7.7 Complaints Made to Other Parties Outside the School

Complainants may make their first approach to the police, another statutory body, the LEA, a local or national elected representative or a voluntary organisation. The governing body will provide such organisations with their complaints procedure encouraging them to contact the school if the complainant contacts them.

If such parties receive complaints about a school they should take account of the statutory responsibility of the governing body for the resolution of complaints.