



# Complaints Policy

## Document Management Information

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| <b>Applicable to:</b>          | All staff in all Academies and Central Support Services including individuals employed by the Trust, contractors and agency staff.<br><br>All Members and Trustees. |
| <b>Dissemination:</b>          | The policy will be available to staff via the Trust's Policy Centre and website   |
| <b>Training:</b>               | On request  |
| <b>Review Frequency:</b>       | The policy will be reviewed every three years. The policy will be reviewed earlier if needed in the light of new evidence, legislation and guidance.                |
| <b>Policy Author:</b>          | Owen McColgan - Chief Executive   |
| <b>Executive Policy Owner:</b> | Owen McColgan - Chief Executive   |
| <b>Approval by:</b>            | Level 1 - Board of Directors  |
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## 1. Introduction

- 1.1. The Howard Academy Trust and its academies endeavours to provide the best education possible for all of its pupils in an open and transparent environment. We welcome any feedback that we receive from parents, pupils and third parties, and we accept that on occasion individuals may feel dissatisfied with the service they receive and will wish to express this dissatisfaction.
- 1.2. Where concerns are raised the academy intends for these to be dealt with:
  - Fairly.
  - Openly.
  - Promptly.
  - Without Prejudice.
- 1.3. This policy explains the process for handling complaints about the Trust and its Academies.

## 2. Policy Scope

- 2.1. This policy applies to concerns and complaints relating to Academies, Academy Staff and Academy Governors, the Trust and Directors.
- 2.2. It does not apply to the following topics of complaints, which have specific policies and procedures for dealing with them:
  - Pupil Admissions.
  - Pupil Exclusions.
  - Staff grievance, capability or disciplinary.
  - Whistleblowing complaints (eg, a criminal offence, fraud, someone's health and safety is in danger, risk or actual damage to the environment, a miscarriage of justice, the Trust is breaking the law, someone is covering up wrongdoing).
  - Subject Access Requests and Freedom of Information Requests.
- 2.3. These policies can be accessed either on the Trust or academy website. A copy of the Complaints Policy will be available in the Trust and Academy Reception Areas.
- 2.4. The Trust will not investigate complaints about services provided by other providers who may use academy premises or facilities. These organisations will have their own complaints procedures and should be contacted directly.
- 2.5. It is the responsibility of all individuals in the Trust and Academies to familiarise themselves with this policy and comply with its provisions.

## 3. Legal and Regulatory Framework

- 3.1. This Policy takes its legal framework from the following legislation and statutory guidance:
  - The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents>
  - The Data Protection Act 2018 <http://www.legislation.gov.uk/ukpga/2018/12/contents/enacted>

- The Education (Independent Academy Standards) Regulations 2014  
<http://www.legislation.gov.uk/uksi/2014/3283/contents/made>
- The Education Funding and Skills Agency advice for setting up academy complaints procedures <https://www.gov.uk/government/publications/setting-up-an-academies-complaints-procedure/putting-in-place-a-complaints-procedure>

#### **4. What is a Complaint?**

- 4.1. The Trust takes very seriously any concern or complaint about the education or other services we provide or about the conduct of our staff. We believe that by tackling concerns at the earliest possible stage it allows us to improve relationships, enhance learning, prevent issues escalating and reduce the number of formal complaints we receive.
- 4.2. A **concern** is defined as “an expression of worry or doubt over an issue considered to be important for which reassurances are sought”. It is expected that concerns will be addressed via the informal process outlined in this policy.
- 4.3. A **complaint** is defined as “an expression of dissatisfaction however made, about actions taken or a lack of action”.
- 4.4. The Trust intends to resolve complaints informally where possible, at the earliest possible stage.

#### **5. Safeguarding**

- 5.1. Wherever a complaint indicates that a child’s wellbeing or safety is at risk, there is a duty to report this immediately to the Academy’s Safeguarding Lead and the Local Authority. Any action taken will be in accordance with the Trust’s Safeguarding and Child Protection Policy which can be found either on the Trust’s or Academy’s website.

#### **6. Social Media**

- 6.1. In order for complaints to be resolved as quickly and fairly as possible the Trust requests that complainants do not discuss complaints publicly via social media such as Facebook and Twitter. Complaints will be dealt with confidentially for those involved, and we expect complainants to observe confidentiality also.

#### **7. Complaints that result in staff capability or disciplinary or Police investigation**

- 7.1. If at any formal stage of the complaint it is determined that staff disciplinary or capability proceedings are necessary in order to resolve the issue, the details of this action will remain confidential to the Trust. The complainant is not entitled to participate in the proceedings or receive any detail about them.
- 7.2. If the subject of the complaint is a matter being referred to the police, the complaints procedure will be suspended pending the outcome of that investigation and the complainant will be informed of the reasons for this delay. Once the outcome is known the complaint may continue if appropriate.

#### **8. Anonymous Complaints**

- 8.1. Anonymous complaints will not be investigated, save in exceptional circumstances, as we are unable to respond to the complainant. These circumstances would include serious concerns such as child protection issues, where the Trust is either required to involve appropriate external agencies or might conduct its own internal review to test whether there is any corroborative evidence which might trigger a formal investigation.

8.2. Whistleblowing complaints, eg, a criminal offence, fraud, someone's health and safety is in danger, risk or actual damage to the environment, a miscarriage of justice, the Trust is breaking the law, someone is covering up wrongdoing will be investigated under the Trust's Whistleblowing policy.

## 9. Procedure

### 9.1. Informal Stage - Raising a concern

- 9.1.1. The majority of concerns can be dealt with without resorting to the complaints procedure and complainants are expected to seek to resolve matters informally prior to raising a formal complaint. Clear justification for not seeking informal resolution will need to be given.
- 9.1.2. Where someone has a concern about any aspect of the Academy or their child's education or wellbeing, this should in the first instance be raised with the form tutor, class teacher, Head of Year or relevant Subject Teacher via the phone, email or in person. A response will be provided at the earliest opportunity, normally we would expect this to be within 5 working days. A concern should not be escalated until the staff member has had this period of time to respond.
- 9.1.3. Someone wishing to raise a concern in relation to a Head of School may, in the first instance contact a member of the Trust Executive Team who line manages the Head of School (via the enquiries@thatrust.org.uk).
- 9.1.4. Someone wishing to raise a Trust concern (ie, one that relates to the Trust rather than an Academy) may contact the Chief Executive's Office by emailing (enquiries@thatrust.org.uk), or by post at: The Howard Academy Trust, Head Office, Southside Three Road, Chatham, Kent, ME4 4FQ.
- 9.1.5. All concerns will be dealt with confidentially, although the staff member may need to take notes if they feel that the matter may need to be taken further or it may arise again in the future. Any such notes will be kept in accordance with the principles of the Data Protection Act 2018. However, such notes would be able to be used to as evidence if further investigation was required, or if the concern became a formal complaint.
- 9.1.6. If the response is not considered to be satisfactory or has not been resolved, the complainant can initiate the following formal stages.

### 9.2. Stage 1 - Formal investigation

- 9.2.1. Where as a result of raising a concern the complainant still feels that the issue has not been addressed, or where the outcome has been that the complaint needs further investigation than can be resolved briefly, they may progress by making a formal complaint. In doing so, the following steps will be followed.
- 9.2.2. The Complainant must put the complaint in writing using the Trust's Complaints form (attached at **Appendix 1**) unless the complainant has a disability which prevents this, in which case the complainant may contact the Academy or the Trust for assistance.
- 9.2.3. The complainant must explain in writing:
  - An overview of the complaint so far.
  - Who has been involved.
  - Why the complaint remains unresolved and steps taken to resolve the matter informally prior to making a formal complaint

- Action they would like to be taken to put things right.

9.2.4. The complainant should also provide copies of any supporting documentation.

9.2.5. Who to complain to:

- Where a complaint relates to an **Academy or Academy staff**, the complaint should be addressed to the Head of School at the Academy. Contact details are available on the Academy website. The complaint will be investigated by the Head of School or allocated to an appropriate investigating manager who has no connection with the complaint.
- Where a complaint relates to the **Head of School** or a **Governor**, the complaint should be addressed to the Chief Executive at [enquiries@thatrust.org.uk](mailto:enquiries@thatrust.org.uk) or by post at: The Howard Academy Trust, South Side Three Road, Chatham, Kent, ME4 4FQ. The Chief Executive will allocate an appropriate senior investigating manager who has no connection with the complaint.
- Where a complaint relates to the **Trust or a Head Office member of staff**, the complaint should be addressed to the Chief Executive at [enquiries@thatrust.org.uk](mailto:enquiries@thatrust.org.uk) or by post at: The Howard Academy Trust, South Side Three Road, Chatham, Kent, ME4 4FQ. The Chief Executive Officer will allocate an appropriate senior investigating manager who has no connection with the complaint.
- Where the complaint relates to the **Chief Executive Officer or a Director**, the complaint should be addressed to the Trust Governance Professional at [enquiries@thatrust.org.uk](mailto:enquiries@thatrust.org.uk) or by post at: The Howard Academy Trust, South Side Three Road, Chatham, Kent, ME4 4FQ. The Chair of Trust Board (or nominated Trustee) will allocate an appropriate investigating manager or Trustee. If the complaint is about the Chair of the Board an independent investigating manager will be appointed.

9.2.6. The complaint will be acknowledged, verbally or in writing, within 5 working days (excluding those which fall in the academy holidays) of having received the written complaint.

9.2.7. The investigating manager may decide to have a meeting with the complainant if they feel that it would be appropriate for the investigation.

9.2.8. The investigating manager will report the findings to the Head of School (for Academy complaints) or to the Chief Executive (for complaints relating to the Head of School, a Governor or Trust Complaints).

9.2.9. The complainant will be provided with a written response outlining the outcome of the investigation within 15 working days (excluding those which fall in the academy holidays) of acknowledging receipt of the complaint. The letter must explain clearly why any decision has been made and detail any agreed actions as a result of the complaint. Finally, the complainant will be provided with details of how to progress the complaint to Stage 2 if they are not satisfied.

### 9.3. Stage 2 - Formal Review

9.3.1. If the complainant is not satisfied with the outcome of the first stage, they may request that the complaint be reviewed by someone who is independent to the complaint and has not been involved in the investigation. Such a request should be in writing addressed to the Chief Executive ([enquiries@thatrust.org.uk](mailto:enquiries@thatrust.org.uk)), within 10 working days of the response being sent to the complainant and must set out briefly,

the reasons why the complainant is dissatisfied with the response.

9.3.2. The Chief Executive's Office will acknowledge the request and notify the relevant individual as outlined below.

- Where a complaint relates to an **Academy, Academy staff**, the review will be undertaken by a member of the Trust Executive Team.
- Where a complaint relates to an Academy Head of School or **Academy Governor** the review will be undertaken by the Chief Executive.
- Where the complaint relates to the **Trust or Head Office Staff**, the review will be undertaken by the Chief Executive Officer (or an appropriately senior nominee).
- Where the complaint relates to the **Chief Executive Officer or a Director**, the review will be undertaken by the Chair of the Trust Board or nominated Trustee who has not previously been involved in the complaints process.

9.3.3. A review of the matter to date will be undertaken. All relevant evidence will be considered; this may include but is not limited to:

- The complaint statement from the complainant.
- Steps taken to resolve the matter informally prior to making a formal complaint.
- Where relevant a statement from an individual who is the subject of the complaint.
- Any previous correspondence regarding the complaint.
- Any supporting documents in either case.
- Interview with anyone related to the complaint.

9.3.4. A meeting with the complainant will be arranged should this be appropriate.

9.3.5. The reviewer can make the following decisions:

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

9.3.6. The reviewer will provide a response to the complainant, and the Governance Team, within 15 working days (excluding those which fall in the academy holidays) of the written request to proceed to the Second Stage. The reviewer must explain clearly why they have come to the decision that they made. They must detail any agreed actions as a result of the complaint.

Finally, they must provide the complainant with details of how to progress the complaint to Stage 3 if they are not satisfied.

#### 9.4. Stage 3 - Appeal - Review by a Panel

- 9.4.1. If the complainant wishes to appeal a decision made at Stage 2, the complainant is able to appeal this decision.
- 9.4.2. Such a request should be in writing addressed to the Chief Executive's Office [enquiries@thatrust.org.uk](mailto:enquiries@thatrust.org.uk) within 10 working days of the response being sent to the complainant and must set out briefly, the reasons why the complainant is dissatisfied with the response.
- 9.4.3. The Trust Governance Professional, will convene an appeal hearing as follows:
  - Where a complaint relates to an **Academy, Academy staff, Governor or a Head of School**, the review will be undertaken by a panel of three governors/directors within the Trust (the panel will have not previously been involved with the complaint.)
  - Where the complaint relates to **Trust, Head Office Staff** the review will be undertaken by a panel of three Directors of the Trust Board, who have not previously been involved with the complaint.
- 9.4.4. The clerk will fulfil the role of organising the time and date of the appeal hearing, inviting all the attendees. On receipt of this written notification, the clerk will write to the complainant within 5 working days (not including the academy holidays) to confirm receipt of the appeal request.
- 9.4.5. The clerk will convene a panel, collating all the relevant documentation and distributing this 5 days in advance of the meeting.
- 9.4.6. The appeal hearing will take place as soon as practicable and whenever possible within 20 working days (excluding those which fall in the academy holidays) of receipt of the date of the confirmation letter from the clerk to the complainant, confirming the appeal.
- 9.4.7. In addition to the panel, the following parties will be invited, where applicable:
  - The complainant(s).
  - The investigating manager and/or one representative.
  - The reviewer who dealt with the complaint at Stage 2
  - Where the complaint regards a member of staff, the staff member who is the subject of the complaint.

- Any other individual whom the Complaints Panel considers to have a reasonable and just interest in the appeal and whose contribution would assist the Panel in their decision-making.
- 9.4.8. The complainant may also bring a companion with them to the hearing if they wish. Where the subject of the complaint is a member of staff, that staff member is also able to bring a companion with them. The companion will be a friend or a colleague. Neither party is able to bring legal representation with them.
- 9.4.9. If the attendance of any pupils is required at the hearing, parental permission will be sought if they are under the age of 18. Extra care will be taken to consider the vulnerability of children where they are present at a complaints hearing.
- 9.4.10. The panel can make the following decisions:
- 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 systems or procedures to ensure that problems of a similar nature do not recur.
- 9.4.11. The clerk will record the proceedings in the form of minutes. All parties who attended the meeting, and where relevant the person complained about, will be informed in writing of the outcome of the appeal within 10 working days (excluding those which fall in the academy holidays). The findings and recommendations will also be available for inspection on the Academy premises by the proprietor and the Head of School.
- 9.4.12. This is the final stage at which the complaint will be considered.

## 10. Continued Dissatisfaction with Outcome

- 10.1. If the complainant is not satisfied with the outcome of the complaints procedure, they can refer their complaint to the Education & Skills Funding Agency (ESFA). The ESFA will check whether the complaint has been dealt with properly.
- 10.2. The ESFA will not overturn a decision about a complaint. However, it will look into:
- Whether there was undue delay, or the Academy/Trust did not comply with its own complaints procedure.
  - Whether the Academy/Trust was in breach of its funding agreement with the ~~Secretary~~ Secretary of state.
  - Whether the Academy/Trust has failed to comply with any other legal obligation.
- 10.3. If the Academy/Trust did not deal with the complaint properly, it will be asked to re-investigate the complaint.
- 10.4. If the complaints procedure is found to not meet regulations, the Trust will be asked to correct its procedure accordingly.
- 10.5. For more information or to refer a complaint to the ESFA, see the following webpage: <https://www.gov.uk/complain-about-school>

10.6. Ofsted will also consider complaints about academies. The link to Ofsted is below: <https://contact.ofsted.gov.uk/online-complaints>

## 11. Timeframes

- 11.1. The Trust will endeavour to abide by timeframes stated under each stage but acknowledges that in some circumstances, this is not always possible due to the complexity of information needed to review a complaint or difficulties regarding individual's availability to deal with the complaint, for example. If it becomes apparent that it is not possible to complete any stage of the complaints procedure within a given timeframe, the individual responsible for handling the complaint will contact the complainant as soon as possible and come to an agreed timeframe that works for all parties involved.
- 11.2. Any complaint received within one week of the end of a term or half term is likely to take longer to resolve owing to the presence of school holidays and the unavailability of personnel required for the investigation to be undertaken properly.
- 11.3. The Trust reserves the right not to investigate complaints that have been made three months after the subject of the complaint took place, except in exceptional circumstances. What is meant by exceptional circumstances is where new evidence has come to light, where the complaint is of an especially serious matter or where there is reasonable justification for why the complainant has been unable to raise the complaint before this time. The Trust will review the situation and decide whether or not to enact the complaints procedure.

## 12. Serial and Persistent Complainants

- 12.1. Where a complainant raises an issue that has already been dealt with via the Trust's complaints policy, and that procedure has been exhausted, the complaint will not be re-investigated except in exceptional circumstances, for example where new evidence has come to light.
- 12.2. The Trust is committed to dealing with all complaints fairly and impartially, and to providing a high quality service to those who complain. The Trust will not normally limit the contact complainants have with the Trust or an academy. However, the Trust does not expect staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening. Defines unreasonable complainants as 'those who, because of the frequency or nature of their contacts with the Trust or academy, hinder our consideration of their or other people's complaints'.
- 12.3. A complaint may be regarded as unreasonable when the person making the complaint:
- Refuses to articulate their complaint or specify the grounds of a complaint or the outcome sought by raising the complaint, despite offers of assistance.
  - Refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
  - Refuses to accept that certain issues are not within the scope of a complaints procedure.
  - Insists on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice.
  - Introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and

to their own timescales.

- Makes unjustified complaints about staff who are trying to deal with the issues, and seeks to have them replaced.
- Changes the basis of the complaint as the investigation proceeds.
- Repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed).
- refuses to accept the findings of the investigation into that complaint where the Trust's complaint procedure has been fully and properly implemented and completed including referral to the Department for Education.
- seeks an unrealistic outcome.
- Makes excessive demands on Trust/Academy time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with.

12.4. A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:

- Maliciously.
- Aggressively.
- Using threats, intimidation or violence.
- Using abusive, offensive or discriminatory language.
- Knowing it to be false.
- Using falsified information.
- Publishing unacceptable information in a variety of media such as in social media websites and newspapers.

12.5. Complainants should limit the numbers of communications while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached.

12.6. Whenever possible, the Head of School or a member of the Trust Executive Team will discuss any concerns with the complainant informally before applying an 'unreasonable' marking.

12.7. If the behaviour continues the Head of School/Trust Executive Team will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively contact causing a significant level of disruption, the Trust may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after 6 months.

12.8. In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the Police informed. This may include banning an individual from Trust or Academy premises.

### **13. Training and awareness**

- 13.1. The Trust will ensure that all individuals involved in the management of complaints understand their responsibilities under this Policy by providing appropriate training, education and guidance. The level of training and the nature of the education and guidance may vary depending upon the role as relevant to the policy.

### **14. Record keeping and Confidentiality**

- 14.1. The Trust will retain records evidencing compliance with this policy, as set out in the Trust's Data Retention Policy.
- 14.2. A written record will be kept in all academies of all complaints and whether they are resolved following a formal procedure, or proceed to a panel hearing and action taken as a result of those complaints (regardless of whether they are upheld).
- 14.3. All complaints will be treated as confidential. Only those members of staff concerned with investigating the complaint will have access to documentation relating to the complaint. No confidential information regarding the investigation will be made available publicly. However, it should be noted that if any action taken by a member of staff is the subject of a complaint, then that person should be advised of the complaint made against them.
- 14.4. All confidential information will be securely maintained by the Academy/Trust on its premises and all data will be handled in line with the principles of the Data Protection Act 2018.
- 14.5. Correspondence, statements and records relating to individual complaints will be kept confidential except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them.

### **15. Approvals and Exceptions**

- 15.1. Significant deviations from this Policy or its associated Procedures must be monitored and reported to the Trust Governance Professional.

### **16. Policy Status**

- 16.1. This policy does not form part of any employee's contract of employment.

### **17. Timing and frequency of review of the policy**

- 17.1. This policy will be reviewed every three years or when relevant statutory guidance is issued.

### **18. Related Policies**

- 18.1. This policy is related to the following other Trust policies:

- Safeguarding and Child Protection Policy.
- Whistleblowing Policy.
- Data Protection and Freedom of Information Policy.
- Data Retention Policy.
- Equality and Diversity Policy.



## Formal Complaints Form

|  |  |              |  |
|--|--|--------------|--|
| <b>Your name:</b>  |  |              |  |
| <b>Pupil's name if appropriate:</b>  |  |              |  |
| <b>Your relationship to the pupil:</b>   |  |              |  |
| <b>Academy Name (if applicable):</b>   |  |              |  |
| <b>Address:</b>  |  |              |  |
| <b>Email:</b>  |  |              |  |
| <b>Telephone Number:</b>   |  |              |  |
| <b>Please provide details of your complaint:</b>   |  |              |  |
|  |  |              |  |
| <b>What action, if any, have you already taken to try and resolve your complaint informally. (Who did you speak to and what was the response?)</b> |  |              |  |
|  |  |              |  |
| <b>Why does this issue remain unresolved and what actions do you feel might resolve the problem at this stage?</b>                                 |  |              |  |
|  |  |              |  |
| <b>Are you attaching any paperwork, eg previous correspondence? If so, please provide details:</b>   |  |              |  |
|  |  |              |  |
| <b>Signature:</b>  |  | <b>Date:</b> |  |

Please return the completed form either:

- Directly to the Academy (contact details on the Academy website)
- By email to the Chief Executive's Office - enquiries@thatrust.org.uk
- By post to the Chief Executive's Office, The Howard Academy Trust, C/O Waterfront UTC, South Side Three Road, Chatham, Kent, ME4 4FQ.