

Circular 00/25

Information

Complaints to the Council

Summary

This circular sets out the Council's procedures for:

- considering complaints under the *Charter for Further Education*
- complaints made by 'whistleblowers'
- complaints containing allegations of fraud and irregularities about colleges of further education made to the Council.

It includes a report in annex A on the complaints made to the Council between 1 January 1999 and 31 March 2000 including fuller details of the conclusions of a sample of complaints made to the Council.

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Arrangements for Considering Complaints to the Council

Introduction

1 This circular sets out the Council's procedures for considering complaints under the *Charter for Further Education (Charter)*, complaints made by 'whistleblowers' and complaints containing allegations of fraud and irregularities about colleges of further education made to the Council.

Annex A sets out the complaints made to the Council between 1 January 1999 and 31 March 2000 and includes fuller details of the conclusions of these.

Annex B sets out the Council's procedure for dealing with complaints made under the *Charter*.

Annex C sets out procedures for complaints by whistleblowers, and annex D describes the procedure for complaints containing allegations of fraud or irregularity.

2 This circular supersedes Circular 99/17.

Complaints

3 The circular covers the following:

- complaints made under the *Charter*
- complaints made by an employee or other person concerning wrongdoing by a college (whistleblowing)
- complaints, whether whistleblowing or not, involving an allegation of fraud or irregularity.

4 This circular does not cover the following matters, arrangements for which are set out in other Council publications as specified:

- appeals against inspection grades and audit opinions reached as a result of the Council's inspection and audit process (set out in the *Inspection Handbook* and available on the Council's website (www.fefc.ac.uk))
- appeals against the Council's decision not to fund a placement for a student with learning difficulties and/or disabilities at a

specialist college outside the sector (Circular 99/02, paragraph 58)

- complaints from institutions about the Council's administration (Circular 99/03).

The Charter for Further Education

5 The *Charter* was published in 1993. This provided for each college to introduce its own charter. It also gave the Council a responsibility for considering complaints about colleges where these are:

- about the quality of education provided
- that a college has acted unreasonably or in default of its duties
- that a particular course is not available within a reasonable travelling distance.

6 The *Charter* makes clear in the first two cases that any complaint should be made first to the college. Complaints about the third case might be addressed initially either to the college or to the Council. The *Charter* also provides for complaints to be made directly to the secretary of state for education and employment if a complainant is dissatisfied with the college's consideration of a complaint.

Duties under the Charter

7 Colleges have certain duties under the *Charter* relating to complaints. These are that colleges must have in place arrangements for handling formal complaints and to:

- make sure that these arrangements are clear and effective
- publish details in their charters
- consider formal complaints fairly and quickly
- give an initial response to a complaint within ten working days
- give their reasons if they reject the complaint.

Colleges are also expected under the *Charter* to ensure that their rules of conduct and disciplinary procedures are made widely known and understood by students. Colleges are advised to keep these arrangements under review, particularly those for handling matters relating to individuals.

Complaints handling

8 In June 1998 the Cabinet Office published *How to Deal with Complaints*. This report identifies the 'business case' for having effective procedures in place for handling complaints. It notes that 'the government believes that proper handling of complaints is crucial to its programme to modernise and improve public services'. It contains a useful checklist of the basic principles, including confidentiality, fairness, regular monitoring together with examples of good practice. This should help those colleges wishing to review their current arrangements as well as staff within colleges who deal with complaints regularly. The document can be obtained from Service First at the Cabinet Office.

Legal responsibilities

9 Each college is accountable under the law and its decisions may be challenged if the college is alleged to have:

- failed to fulfil its legal duties
- acted outside its powers
- acted unreasonably
- failed to ensure that the principles of natural justice have been followed in relation to actions affecting individuals.

The following paragraphs offer guidance on the implications of these four requirements.

10 The powers and duties of colleges are conferred by statute; regulations; the instrument and articles of government; the financial memorandum with the Council; accepted procedures; and custom and practice.

11 The scope of a college's powers may be affected by any decision of the governing body to limit or otherwise modify the way in which the college operates.

12 Colleges are required to act reasonably. Unreasonable actions, however, may include a college not following procedures which it has established; taking an irrelevant factor into account when making a decision or not taking a relevant factor into account. Generally colleges should ensure that all their decisions are supported by reasoned argument backed up with evidence.

13 When dealing with individuals, the principles of natural justice also apply. Colleges should make their rules and disciplinary procedures widely known and understood. Procedures such as those

for student exclusion must offer the opportunity for the person involved to see any charges or complaints made about them; provide that person with an opportunity to offer a defence; provide an opportunity to put things right; and provide for an appeal headed by a person or panel not involved in the initial decision. The procedures should also provide for a student to be accompanied by a relative, friend, union representative or other person at any disciplinary hearing.

Speed

14 Considering complaints can be time-consuming. Colleges should have systems in place designed to make sure that complaints are dealt with promptly, particularly where a student's continued progress on a course or the achievement of a qualification may be affected by the outcome. They will also want to consider having in place a named person whose job is to handle complaints.

Legal advice

15 The Council advises colleges to seek legal advice on the risk of challenge to their decisions if there is any doubt about a particular case.

Redress

16 In most cases, the Council would expect colleges to deal effectively with complaints made to them without reference to the Council or any other external body. Often a complainant will be satisfied with an apology or an assurance that a problem will not recur or, for example, in appropriate circumstances a refund of fees. Even in cases in which a complainant has referred a matter to the Council, the college may still seek to resolve the complaint before the Council reaches its conclusions.

The Council's role in considering complaints under the *Charter*

17 In considering complaints made under the *Charter* the Council will not normally substitute its own view or decision for that of the college. The Council is concerned with whether the college has followed its procedures in reaching the decision and has acted reasonably. If the Council considers that the college has not followed proper procedures in reaching its decision or that the decision is clearly unreasonable, it will not substitute its own decision for that of the college but will refer the decision or action back to the college for review.

18 The Council acts in this role at the request of the secretary of state who has powers to give directions to governing bodies of colleges where they have acted unreasonably or in default of their duties. The Council does not have powers in such matters to direct colleges. Nonetheless, the Council expects that colleges would wish to co-operate with it in cases where a complaint has been made and action identified.

Publicising the roles of the Council and the secretary of state

19 The *Charter* advises students, employers and the local community about their right to lodge a complaint with the Council or the secretary of state. The Council has published a leaflet, which sets out its role in considering complaints.

20 It is important that complainants are aware that there is an opportunity for review of their complaints by the Council. Colleges are therefore requested to ensure that the description of their own procedures refers to the role of the Council and that they provide information as to how the Council can be contacted when necessary.

21 The Council will publish information about the complaints under the *Charter* it has considered under these procedures. Information about complaints received and concluded under the *Charter* between 1 January 1999 and 31 March 2000 is in annex A, including details of a sample of the cases to illustrate the sort of issues raised.

Council's procedures for considering complaints under the *Charter*

22 In 1996, following consultation with the sector, the Council published in Circular 96/20 its procedure for considering complaints about colleges.

23 In 1999, in line with the increasing focus on work at regional level, the handling of complaints was transferred to the relevant regional office under Council Circular 99/17. The secretary to the Council has a role in monitoring and reporting on progress, supporting regional offices in handling complaints and reviewing complaints on behalf of the chief executive when a complainant is dissatisfied with consideration by the regional office.

24 The Council's procedure for dealing with complaints under the *Charter* is set out in annex B.

Nature of information

25 The Council's procedures are based on considering written documentation about a complaint. Complainants are therefore advised to provide detailed information about their complaint including any documentary evidence. In seeking information about a college's consideration of a complaint from a college, the Council will aim to specify the type of information which it would find most useful. The Council will seek supporting material rather than simply a statement from the college. For example, if a college refers to a letter in commenting on a complaint, the Council would normally wish to receive a copy of that letter. Without such information to support its conclusions, the Council could be challenged.

26 The Council would expect that, subject to practical difficulties, colleges would have sought to obtain independent corroboration of events surrounding a complaint, such as seeking information from students who may have witnessed events which are the subject of complaints.

27 The Council will also consider, where appropriate, information it already holds about colleges such as inspection and audit reports and data from the individualised student record.

Interpreting colleges' duties and powers

28 In considering specific complaints the Council has developed a number of general interpretations of colleges' duties and powers against which it has considered the information available to it. These are set out in annex E.

Resolution of difficulties

29 The Council recognises that in considering complaints about colleges, a college may consider that the Council has not dealt with a complaint properly. The Council has published procedures in Circular 99/03 for handling complaints about the Council's administration. These arrangements would apply to difficulties arising from the Council's consideration of complaints.

Whistleblowing

30 The Council will consider complaints made by employees or other persons (whistleblowers) which concern possible wrongdoing by a college and in which there is a public interest in the disclosure and

investigation. Complaints could cover unlawful conduct, financial malpractice, health and safety risks to staff, students or the public, possible fraud or irregularity or other unethical conduct.

31 *The Public Interest Disclosure Act 1998* provides that an employee who discloses certain types of information to certain bodies in the public interest, has the right to not suffer any detriment at work as a result of making such a disclosure.

32 The Council expects colleges to have their own procedures for handling whistleblowing. These should normally be contained in the appropriate college code of conduct and/or staff handbook. The Association of Colleges issued revised guidance to colleges on adopting a whistleblowing procedure in June 1998. The Council's procedure for considering complaints from whistleblowers is set out in annex C.

Employment matters

33 The Council will not normally consider complaints from college employees relating to their employment with the college. Complaints about employment matters are more appropriately dealt with by the Employment Tribunal. The Council will consider a complaint relating to an individual's employment only if the complaint concerns a matter of wider public interest, for example an allegation that the college is in breach of the instruments and articles of government or the college's actions have resulted in misuse of public funds.

Allegations of Fraud and Irregularities

34 From time to time, the Council receives allegations of fraud, corruption and irregularity against colleges. Under the financial memorandum between the Council and an institution, the accounting officer of the Council (the chief executive) has a responsibility for ensuring the regularity and propriety of expenditure of funds provided to the Council by the secretary of state. The Council's audit service supports the chief executive in carrying out this responsibility. For the purposes of the criminal law, fraud includes obtaining property or a pecuniary advantage by deception and false accounting for the purposes of gaining an advantage or causing loss; for Council purposes, it may be defined as 'use of deception with the intention of

obtaining an advantage, avoiding an obligation or causing loss to another party.' An irregularity may be defined as information which indicates that: the integrity of data submitted to the Council to support the claim for funding is in doubt; funds were not expended for the purposes given in the financial memorandum; the institution is not managed in accordance with the financial memorandum. The Council's approach to dealing with allegations of fraud and irregularities is set out in annex D.

Anonymous Letters

35 From time to time the Council receives anonymous letters, which contain allegations about a college. The Council will not normally act upon such letters unless the issue raised is sufficiently serious (for example involving individual or public safety or fraud, irregularity or corruption) and credible and there is the likelihood of confirming the allegation from other sources. If the Council secretary, in consultation with the regional director and the audit service, decides to consider an anonymous letter it would, depending on the nature of the allegation, handle it as a complaint under the *Charter*, as a whistleblower complaint or as an allegation of fraud or irregularity.

Anonymous letters supported by another person

36 Occasionally, anonymous letters are received by the Council under cover of another person, including members of parliament and local authorities. When the person writing is doing so on behalf of a person who does not wish their identity to be known to the Council or college, the correspondence will be handled either as a complaint under the *Charter*, a whistleblower complaint or an allegation of fraud or irregularity as appropriate.

37 Where the person writing is doing so to seek information on the issues raised by the anonymous correspondent, the Council will provide such information as is in the public domain and relevant, copying the reply to the college.

General

38 While the Council takes very seriously any allegation against a college, any allegations which the Council considers to be vexatious or malicious

because they contain no substance and/or it is clear to the Council that the person making the allegation is doing so for an improper motive, will not be investigated.

39 While the Council is publishing this procedure with the intention of operating in a transparent and open manner, it reserves the right, depending on the nature and seriousness of the allegations being made, to proceed with its investigations of allegations as it sees fit.

40 The Council has set up a team to conduct enquiries and reviews in relation to colleges and one of the functions of the team is to investigate the more serious and complex complaints made.

The future

41 The Learning and Skills Council will be taking over the Council's responsibilities in April 2001. The *Charter for Further Education* is currently being combined with a charter for work-based training to provide a charter for all post-16 learners.



Analysis of Formal Complaints Concluded 1 January 1999 to 31 March 2000

1 Between 1 January 1999 and 31 March 2000, the Council has concluded 43 complaints made under the *Charter for Further Education*. The Council has also concluded complaints made by ten whistleblowers, and 39 anonymous complaints. A sample of the complaints concluded under the *Charter* can be found below.

2 An analysis of the types of complaints concluded under the *Charter* is set out in table 1. Table 2 shows the type of complainants for the complaints made under the *Charter*.

Outcome of Complaints

3 An analysis of the outcomes of the complaints made under the *Charter* is set out in table 3. The Council's procedures allow for the complaint to be resolved at any time during the process by the college, if this is acceptable to the complainant.

Whistleblowers and Anonymous Letters

4 Between 1 January 1999 and 31 March 2000, the Council received 19 whistleblowing allegations and 50 anonymous letters. Of these, ten whistleblowers and 39 anonymous complaints have been concluded. An analysis of the types of allegations concluded during the period is set out in table 4.

Summary of Complaints Made Under the *Charter*

5 A sample of the types of complaints made under the *Charter* and considered by the Council can be found below. The sample is not exhaustive, and is intended to serve as an example of the types of complaints considered by the Council, and their outcomes and recommendations.

Table 1. Nature of complaints made under the Charter

<i>Nature of complaint</i>	<i>Number</i>
Administration	10
Quality	9
Exclusion/conduct	7
Other	17
Total	43

Table 2. Breakdown of complainant type for complaints made under the Charter

<i>Type of complainant</i>	<i>Number</i>
Student	29
Parent	8
Public	1
Staff	5
Total	43

Table 3. Outcomes of complaints made under the Charter

<i>Outcome</i>	<i>Number</i>
Upheld	5
Partly upheld	8
Not upheld	7
Withdrawn/resolved by the college	18
Insufficient evidence to conclude	5
Total	43

Table 4. Nature of whistleblowers and anonymous allegations concluded between 1 January 1999 and 31 March 2000

<i>Nature of allegation</i>	<i>Number</i>
Fraud and irregularity	19
Employment practices	5
Misconduct	5
Other	20
Total	49

Complaints Concluded by the Further Education Funding Council 1 January 1999 to 31 March 2000

<i>College 1</i>	<i>Complaint</i>	<i>Conclusion</i>
	In relation to re-sitting examinations, the college failed to give the complainant the opportunity to access support or guidance.	The complainant and the college both offered conflicting versions of events, and therefore the Council could not make a judgement.
	Recommendation	
	No recommendations were made.	
<i>College 2</i>	<i>Complaint</i>	<i>Conclusion</i>
	In relation to the complainant's son, the college: a. did not follow agreed learning plan; b. did not provide adequate medical care and support; and c. could not fully account for the expenditure of money given to the student.	a. the accounts offered by the college and the complainant differed and therefore a judgement could not be made.
	Recommendation	
	The college has reviewed its procedures for arrangements for admissions, laundry and the use of students' rooms at weekends.	
<i>College 3</i>	<i>Complaint</i>	<i>Conclusion</i>
	In relation to the complainant's daughter, the college a. inadequately handled a complaint of harassment towards her and; b. failed to provide adequate provision of learning and tutorial support.	a. the college followed its complaints procedure, but admitted that it could have kept the complainant better informed; b. the second part of the complaint was treated as a new complaint and handled by the college.
	Recommendation	
	No recommendations were made as the college admitted that it did not keep the complainant well informed.	
<i>College 4</i>	<i>Complaint</i>	<i>Conclusion</i>
	In relation to a specific course, the college: a. failed to provide students with adequate information about course assessment; b. failed to respond adequately and appropriately to letters of complaint; and c. failed to provide within a reasonable timescale, documents that supported an external complaint.	a. the college failed to keep the complainant fully informed; b. the college was slow to produce reports.
	Recommendation	
	No recommendation was made.	

<i>College 5</i>	<i>Complaint</i>	<i>Conclusion</i>
	In relation to a franchised training provider, the college considered a complaint that a trainer displayed verbal racially abusive behaviour.	The college apologised and offered alternative facilities.
	Recommendation	
	The college was recommended to make sure all students were aware of the complaints procedure.	
<i>College 6</i>	<i>Complaint</i>	<i>Conclusion</i>
	In relation to work done for a particular course, the college: <ul style="list-style-type: none"> a. failed to forward coursework for assessment; b. lost the coursework; and c. failed to keep the complainant informed when trying to locate the coursework. 	The college accepted full responsibility for the loss of the coursework.
	Recommendation	
	No recommendations were made.	
<i>College 7</i>	<i>Complaint</i>	<i>Conclusion</i>
	In relation to a complaint made by a student regarding the behaviour of a member of staff on an educational visit, the college: <ul style="list-style-type: none"> a. inadequately followed the complaints procedure; and b. did not fully address the complaint made. 	<ul style="list-style-type: none"> a. the college has no policy or procedures for staff on educational visits; b. the college's handling of the appeal showed weakness in its failure to provide sufficient feedback.
	Recommendation	
	The college was recommended to: <ul style="list-style-type: none"> a. introduce a policy and procedures for staff on educational visits; and b. take action to amend procedures to ensure more detailed feedback is given to complainants. 	
<i>College 8</i>	<i>Complaint</i>	<i>Conclusion</i>
	The complainant requested a refund of fees on the grounds of discrimination by a member of staff and poor quality teaching. In granting the request: <ul style="list-style-type: none"> a. the principal made comments on the complainant's motivation for complaining which was inappropriate and made on the basis of inadequate evidence; and b. the student was unreasonably excluded from future courses. 	<ul style="list-style-type: none"> a. the college explained to the complainant the actions taken in regard to the complaint; b. the college's offer to refund half then all of the fees paid was reasonable; c. the principal has authority to take decisions on whether students should be permitted to enrol.
	Recommendation	
	The principal should be aware of the sensitivities of students when informing them they will be prevented from enrolling on courses.	

<i>College 9</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>Two students made the same complaint about the course. In relation to a particular course:</p> <ol style="list-style-type: none"> essential elements were missing from the taught programme; the college claimed to have equipment that it did not have; adequate staffing and supervision were not provided; an appropriate timetable was not provided; the student was asked to provide false evidence for assessment; and the student was treated in such a way, following the complaint, that they felt obliged to leave without finishing the course and subsequently failed to achieve the qualification. 	<p>Points a, b, c, e and f were not upheld. Point d was upheld, because the college did not provide an appropriate timetable.</p>
Recommendation		
<p>The college should endeavour to consider, with the student, options for continuing their studies, either at this or another college, to achieve the qualification.</p>		
<i>College 10</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>In relation to the complainant's son, the college:</p> <ol style="list-style-type: none"> did not take adequate account of his health and circumstances affecting performance; did not follow their own disciplinary procedures; lost the student's assignments; set unrealistic deadlines after issuing a written warning; bullied the student; did not give adequate weight to work done; had flaws in the appeals procedure; did not conduct the appeal fairly; delayed returning the student's portfolio, ruining the chance of transfer to another college; unfairly offered readmission to part one of the programme, rather than part two; and did not take account of article 26 of the human rights convention. 	<p>Points a, c, d, e, f, i, j and k were not upheld. Points b, g and h were upheld. Flaws in the college's procedures were identified, and the college failed to follow these procedures correctly.</p>
Recommendation		
<p>The college should review its disciplinary code and complaints procedures, and the guidance to staff who are responsible for implementing them. The college should ensure that those staff involved in conducting appeals have not had previous involvement in investigating matters which are the subject of the appeal.</p>		

<i>College 11</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>The college:</p> <ul style="list-style-type: none"> a. as a result of the parents' complaint, withdrew the offer of a place on course for the student; b. inaccurately attributed a lack of confidence in the college expressed by the complainants and the student as a reason for withdrawing the offer; c. did not follow their own complaints procedure; d. did not fairly or adequately investigate or consider a complaint made against a member of staff; and e. refused to supply the complainant with a copy of the college procedures. 	<p>Point a, b, c and e were upheld. There was insufficient evidence provided for the Council to make a judgement on point d.</p>
<p>Recommendation</p>		
<p>The college should:</p> <ul style="list-style-type: none"> a. review as soon as possible the decision not to enrol the student; and b. review its procedures to establish clear boundaries between informal and formal procedures, and allow for a review of initial decisions under the formal procedures. 		

<i>College 12</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>The college:</p> <ul style="list-style-type: none"> a. unfairly excluded the complainant from the college football team; b. subjected the complainant to harassment and discrimination by staff; and c. did not fairly consider a complaint about the exclusion from the college football team. 	<p>There was insufficient evidence for the Council to make a judgement on points a and b. Point c was upheld.</p>
<p>Recommendation</p>		
<p>The college should review its complaints procedure and offer the complainant the opportunity for a review of the earlier unsatisfactory handling of the complaint.</p>		

<i>College 13</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>Following intermediate assessment of the course, the college:</p> <ol style="list-style-type: none"> unfairly prevented the complainant from continuing with part two of the course; unfairly took into account assertions made by staff without supporting evidence; did not adequately take into account advice given to the complainant by the tutor regarding assessment standards; failed to ensure students were given accurate information; discriminated against the complaint, in contravention of the equal opportunities policy; did not consider an appeal in an adequate timescale; did not secure a sufficient degree of independence in the appeal panel; did not provide the complainant with adequate information about procedures in advance of the appeal; and did not maintain proper records of the appeal. 	<p>Points a, b, c, e, f and g were not upheld. Points d, h and i were upheld. The college failed to give students accurate information, did not provide the complainant with adequate information about procedures in advance of the appeal, and did not maintain proper records of the appeal.</p>
	<p>Recommendation</p> <p>The college should review its procedures to ensure that:</p> <ol style="list-style-type: none"> recommended timescales within which appeals panels should be heard are provided; and proper formal minutes of assessment panels, assessment boards and appeals panels are kept, recording salient points and reasons for reaching decisions, as well as the decisions themselves. 	
<i>College 14</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>In relation to handling a complaint, the college failed to investigate satisfactorily because the member of staff who conducted the investigation belonged to the same department as the subject of the complaint.</p>	<p>The complaint was dealt with thoroughly and impartially.</p>
	<p>Recommendation</p> <p>The college should review its procedures, in particular:</p> <ol style="list-style-type: none"> the member of staff investigating the complaint should not be directly connected, professionally or otherwise, with the substance of the complaint; and if a potential conflict of interest should arise, the college should consider giving the complainant the opportunity to agree to the person nominated by the college to investigate the complaint. 	

<i>College 15</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>In relation to a course provided by a college franchise partner, the college:</p> <ol style="list-style-type: none"> gave inadequate pre-entry guidance; made changes to the course duration; provided unsatisfactory tutorials; and did not provide clear information about the relationship between the franchise partner and the college. 	<p>On points a and c, there was insufficient evidence to make a judgement on the complaint. Points b and d were partly upheld.</p>
	<p>Recommendation</p> <p>The college should review the guidance provided for students on the course, and ensure that:</p> <ol style="list-style-type: none"> detailed records of pre-entry interviews are kept; course literature makes explicit the format and structure of the course, and the requirement of attendance at client sessions; and arrangements are in place to ensure that all students are advised of planned changes to the course within a reasonable time, and they are kept fully involved. <p>In addition, the college was advised to determine whether it is appropriate to pursue a court order for non-payment of fees before responding to concerns raised about a course.</p>	
<i>College 16</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>In relation to a specific course, the college:</p> <ol style="list-style-type: none"> failed to mention in any reports that certain standards were not being met, which resulted in three students being excluded without prior notification; and did not offer an acceptable explanation or conduct an adequate investigation into the complaint. 	<ol style="list-style-type: none"> the college admitted that its communications systems between the department and students were poor, and reinstated the student. The college apologised unreservedly; and the college did follow its complaints procedures and acted reasonably and fairly throughout the investigation.
	<p>Recommendation</p> <p>The college should improve its communications systems between departments and students in areas where there are course concerns. The college had put procedures in place to prevent a recurrence.</p>	
<i>College 17</i>	<i>Complaint</i>	<i>Conclusion</i>
	<p>In relation to the quality of provision for students with learning difficulties and disabilities, the college:</p> <ol style="list-style-type: none"> abused and intimidated students; and substituted work done by past students for present students prior to FEFC inspection. 	<p>There was no evidence to uphold the complaint.</p>
	<p>Recommendation</p> <p>No recommendations were made.</p>	

<i>College 18</i>	<i>Complaint</i>	<i>Conclusion</i>
	The complainant was dismissed from their post, and alleged it was based on prolonged absence due to illness.	The complainant was referred to an Industrial Tribunal, as the complaint was about an individual employment matter, not a wider procedural issue.
	Recommendation	
	No recommendations were made.	
<i>College 19</i>	<i>Complaint</i>	<i>Conclusion</i>
	The college: a. did not explain the weighting given to previous examination results with regards to admission requirements; and b. complaints procedure was inadequate.	a. there was insufficient evidence to pursue the complaint; and b. the complaints procedure was adequate.
	Recommendation	
	No recommendations were made to the college.	
<i>College 20</i>	<i>Complaint</i>	<i>Conclusion</i>
	The complainant was unhappy with the content of the course, and requested a refund of fees.	The college agreed to refund the fees paid.
	Recommendation	
	No recommendations were made.	
<i>College 21</i>	<i>Complaint</i>	<i>Conclusion</i>
	The college's procedures, particularly regarding dismissal and grievance, were flawed.	The college commissioned an independent review of their procedures. The review concluded that the procedures were sound.
	Recommendation	
	No recommendations were made to the college.	
<i>College 22</i>	<i>Complaint</i>	<i>Conclusion</i>
	The college refused a prospective student admission to a course, based on past records.	The college was within its rights to decide not to let the complainant enrol.
	Recommendation	
	No recommendations were made.	

Procedure for Dealing with Complaints to the Council under the *Charter for Further Education*

Introduction

1 The purpose of the procedure outlined below is to ensure that complaints received by the Council are dealt with quickly, fairly and effectively. The Council aims to resolve complaints promptly. However, they can be complex and involve extensive documentation. Overall the Council normally aims to reach its final conclusions within 14 working weeks from when the summary of a complaint is agreed.

2 This procedure does not preclude complaints being raised with the secretary of state for education and employment at a later date.

Scope

3 The *Charter for Further Education (Charter)* advises that complaints may be made to the Council on the following matters:

- the quality of education provided
- where a college has acted unreasonably or in default of its duties
- the availability of a particular course.

4 The Council will not normally deal with complaints which are subject to police investigations or legal hearings or where a more appropriate means of redress is available, for example complaints on the content of syllabuses which are matters for the examination bodies. Normally complaints will not be considered by the Council until a college's own complaints procedures have been exhausted. The Council may consider complaints when it considers a college's complaints procedures or their implementation to be inadequate. The Council will not consider complaints which are judged by the Council secretary in consultation with the regional director to be clearly unreasonable, malicious or vexatious or without substance.

5 The Council will consider complaints made against colleges only as corporate bodies; the Council will not consider complaints about individual college employees.

6 The Council will consider complaints both from individual students and members of the public and from groups; and from staff, parents, advocates or representatives. The Council will normally consider complaints only if made within three months of the decision of the college which is the subject of the complaint or the point at which the college's complaints procedure has been exhausted.

7 The Council will also consider whether the formal complaints procedure is the most appropriate way to resolve a problem. In such cases regional office staff will contact the college and the complainant to try to establish whether the problem can be resolved more informally.

Procedure

8 The following procedure will be used when a formal complaint is lodged. The Council will normally consider complaints in writing but will consider complaints made in other ways where this would present difficulties for an individual.

Stage 1

- a. complaint received by the Council. The complaint will be acknowledged by the regional director and a copy of the complaint sent to the Council secretary within three working days of receipt;
- b. The regional director will establish whether the complainant has exhausted the college's own procedures and whether the complaint is within the scope of the *Charter*. Where the complaint is not within the scope of the *Charter* the Council will write to the complainant explaining that the Council cannot consider the complaint but may offer, where appropriate, an alternative place where the complaint might be addressed. If the complainant has not exhausted the college's own procedures, the complainant will be referred back to the college;
- c. in most cases the Council would expect to identify the complainant to the college. There may be occasions, such as where a complainant is concerned about an adverse

effect of their complaint on themselves or others, where a request for confidentiality may be reasonable. Where the complainant has indicated that he or she would rather not be identified to the college, the Council will consider whether this is reasonable and whether it would make effective consideration of the complaint impracticable. The Council would not normally consider it appropriate to deal with a complaint on a confidential basis unless:

- there are exceptional circumstances
- the issue raised is generic rather than one affecting an individual
- there is a demonstrated and clear risk that the college may take action against the complainant or another person if their identity is known. In such cases it will not normally be possible for the complaint to have been considered first by the college;

Stage 2

- d. the regional director will write to the complainant within two working weeks summarising the complaint and seeking confirmation of its precise nature, requesting the complainant to provide any supporting information that they wish to be considered and confirming that the complainant is prepared for any papers to be sent to the college;
- e. the regional director will consider whether the complaint raises legal issues which have not been considered previously and will consult the secretary to the Council;

Stage 3

- f. within one working week of the summary being agreed, the regional director will:
 - write to the principal asking for comments on the complaint within three working weeks and specifying where possible the information which would assist in considering the complaint. Where appropriate, regional office staff will discuss the case with the college
 - request a view from the Council's inspectorate and audit directorate within three working weeks;

- g. within two working weeks of receiving a response from the college and inspection and audit directorate, the regional director will consider whether sufficient evidence is available to reach a conclusion. If it is not, the regional director will write to the college asking for further information to be provided to the Council within two working weeks;
- h. within two working weeks of receiving all the information, the regional director will reach initial conclusions on the complaint and write to the complainant and the college:
 - addressing each point in turn
 - citing relevant information from the complainant, college and inspectorate on each point
 - providing a judgement on each point as to whether or not the complaint should be supported and detailing any recommendations to the college;

Stage 4

- i. both the complainant and the college will be requested to comment on the factual accuracy of Council's initial conclusions within two working weeks;
- j. the regional director will consider any additional information provided before reaching final conclusions. The final conclusions will be confirmed to the complainant and the college within two working weeks;

Stage 5

- k. any college or complainant who is dissatisfied with the Council's decision may refer the complaint to the chief executive for review. The chief executive will respond within two working weeks. Should the complainant remain dissatisfied, they have the right to refer their complaint to the secretary of state for education and employment.

Outcome and follow-up

9 A copy of the Council's final conclusions on a complaint will be given to the senior inspector for the region so that it is on file for the next inspection of the college. Where the Council makes a recommendation to a college as a result of a

complaint, it will follow this up with the college to see what action has been taken.

Resolution by the college

10 At any point it will be open to the college to resolve the situation locally. In such cases the college should inform the regional director that the complaint has been resolved and how. The Council will normally seek confirmation of this from the complainant but takes no further action.

Procedure for Dealing with Complaints by Whistleblowers

1 The procedure for considering complaints made by employees or other persons which concern possible wrongdoing by a college is set out below. Complaints covered by this procedure include unlawful or unethical conduct, financial malpractice, and health and safety risks to staff, students or the public.

2 In summary they are complaints about activities which should be disclosed and investigated in the public interest. It does not cover issues which involve purely individual rights such as rights under an employment or other contract and matters for which there is a more appropriate remedy through the courts or other forum. Complaints which include allegations of irregularities or fraud will be dealt with in accordance with the procedures set out in annex D.

3 The Council would normally expect a whistleblower to have exhausted the college's own whistleblowing procedures. The Council recognises that this may not always be possible because of the particular nature of the allegations. In these exceptional circumstances, the Council will make a judgement as to whether to proceed immediately with investigating the allegations.

4 All whistleblower letters received by the Council will be forwarded to the Council secretary who has responsibility for co-ordinating and monitoring the Council's actions. Where the whistleblower requests that their identity be kept confidential, this will be respected as far as possible. If it appears likely that an investigation may lead to the whistleblower being revealed, the Council will agree a way forward with the individual. However, once the Council's chief executive is made aware of serious issues at a college he will be obliged to pursue the matter.

5 On receipt of a whistleblower complaint the Council secretary will consult with the appropriate regional director and the audit service to determine the most appropriate way to deal with the complaint.

6 Normally the procedure to be followed will be for the regional director to ask the college to comment on the allegations initially. On receipt of the college's comments the Council will then take a view as to whether a more detailed investigation is warranted. In determining whether a more detailed investigation is necessary the Council will consider the nature of the college's response including whether it has provided evidence to support that response. A detailed investigation may also be appropriate where the allegations are serious, sensitive or involve particularly complex issues and where there is some evidence to substantiate the allegation.

7 Where the allegation suggests that the college principal or members of the governing body may be involved or there are other circumstances where the independence of a college-based response could not be assumed, the Council may arrange for an immediate investigation, independent of the college, to be carried out.

8 Where an investigation is deemed necessary, that investigation may be carried out either by the Council, by the Council jointly with the college, or an investigation by a person independent of the Council and the college may be commissioned.

9 The Council secretary will confirm to the whistleblower and the college the outcome of the investigation.

10 The Council will complete any investigation into a complaint as quickly as possible but in any event would not normally expect to take longer than six months to conclude an investigation.

Procedure for Dealing with Complaints Containing Allegations of Fraud or Irregularity

1 When the Council receives allegations concerning possible fraud or irregularity, the appropriate regional director, in consultation with the chief auditor, will normally ask the college to comment on the allegation, and where appropriate, ask the college's external auditor to investigate. The chief auditor will wish to comment on the terms of reference of such an investigation and to secure a copy of the report of the investigation, including any action proposed by the college.

2 Where allegations suggest the principal, or the college's accounting officer may be involved, or in other circumstances where the independence of a college-based response cannot be assured and a joint investigation by the college and the Council is not appropriate, the Council may arrange for an investigation independent of the college to be undertaken.

3 Following consideration of the report and action proposed by the college, the Council will reach a conclusion. This may involve further investigation by the Council or an inquiry by a person independent of the college and the Council. The college will be notified of the conclusion, indicating any action to be undertaken. As necessary the Council may refer its conclusions to the National Audit Office, police or other appropriate authority.

4 The Council's chief auditor maintains a log of all allegations of fraud or irregularity. To ensure consistent treatment, a small group drawn from across the Council's directorates and chaired by the director of funding and strategy, meets to review the allegations received and under investigation. The group also considers cross college and regional issues involving fraud or irregularity. An annual report on irregularity is made to the Council's audit committee.

Interpretations of Colleges' Duties, Powers, and Good Practice Arising from Complaints Considered to Date

1 Colleges complaints procedures and the designated responsibilities of appropriate members of staff should be clearly specified. The procedures need to provide the complainant with sufficient opportunity to present their case.

2 When dealing with complaints, colleges are obliged to seek evidence, consider it objectively and apply the principles of natural justice and reasonableness:

- natural justice comprises two fundamental rules of procedure, that a person may not be a judge in his/her own cause (the rule against bias) and that a person's defence must always be fairly heard (the right to a fair hearing)
- an action is reasonable if it falls within the range of possible responses to a situation accepted by right-thinking members of the public (who are taken to have appropriate skills and experience) generally. An action must not merely be one with which some people might disagree, but one with which no one carefully considering the matter could properly disagree.

3 In cases of student discipline, colleges should make sure that the principles of natural justice are applied and in particular should make sure that:

- decisions are made only after both sides of the case are heard
- reasonable notice is given of any meeting or hearing at which a disciplinary issue is being considered
- the opportunity is provided to those affected to be accompanied to any such meeting or hearing by someone who can assist in making representations
- appropriate supporting written material is provided to all parties in advance of any such meeting or hearing.

4 Colleges should give reasonable notice to existing students of the intended withdrawal of a course. Students should receive notice in sufficient time to allow them to complete the course on which they are enrolled within the timescales normally expected for that course and obtain the qualification for which they are aiming.

5 Colleges should ensure that if existing provision funded by the Council is withdrawn, the reasons given to students for withdrawal should be stated accurately and communicated clearly. The reasons given should not suggest that funding is unavailable to support that specific provision unless such a statement is supported by the Council.

6 Colleges should provide full information to examination boards on special circumstances arising from the administration of an examination where such a reference is necessary.

7 Colleges should take care that older students in particular are acquainted with the examination and assessment arrangements for competence-based qualifications and any particular requirements of the awarding bodies in respect of timescales and currency of practice.

8 Colleges should have arrangements which address the induction needs of students who join a course late or who are unable to attend initial guidance or familiarisation sessions, particularly in the case of resource-based learning programmes.

9 Where a provisional offer of a place on a course has been made subject to academic or other references, colleges should take action to follow up reference requests and make sure that the student is informed promptly of any delay and of the final decision.

10 Where colleges require more of students in courses than is required by syllabuses set by external accreditation bodies, they may not claim that such additional requirements are part of such a syllabus.

11 Colleges should in the case of students who are under 18 provide such information as it has on the welfare of the student to his/her parent or guardian.

12 Colleges should apologise promptly where errors have been made on programme delivery and administration.

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