



# Education Funding Agency

## Procedure for dealing with complaints about academies (Version August 2012)

### Introduction

1. This document explains how you can complain to the Education Funding Agency (EFA) about academies and the procedure for considering them. A summary of the procedure is at Annex 1. Please note that there is a specific, separate procedure for complaints about the administration of independent appeal panels for admissions to academies. This is accessible on the [Department for Education's website](#).
2. The precise nature of the relationship between the Secretary of State for Education and an academy is set out in the funding agreement to which they are both party. Complaints about academies are handled by the EFA on behalf of the Secretary of State in this context, rather than under a statutory framework for complaints, such as that relating to maintained schools. Academy funding agreements are available on the [Department for Education's website](#) or by contacting the Department (see paragraph 11).
3. Generally, the EFA can only look at complaints about academies that fall into the following two areas.
  - a. **The academy did not comply with its own complaints procedure when considering a complaint or the academy's complaints procedure does not comply with statutory requirements (see paragraph 4)**

The EFA cannot review or overturn an academy's decisions about complaints but will look at whether the academy considered the complaint appropriately. The EFA will generally only do this after a complaint has been through the academy's own procedure but may investigate sooner if there is evidence of undue delays by the academy. If the EFA finds that an academy did not deal with a complaint appropriately it will request that the complaint is reconsidered. Similarly, if the academy's complaints procedure does not meet statutory requirements then the EFA will ensure this is put right.

- b. **The academy has failed to comply with a duty imposed on it under its funding agreement with the Secretary of State.**

One of the EFA's main responsibilities is to ensure that academies comply with their funding agreement with the Secretary of State. The EFA will seek to resolve any concerns regarding potential or actual breaches of the funding

agreement with the academy directly but this will depend on the evidence provided. Once the EFA is satisfied that an academy is in breach of the funding agreement, and that the breach cannot be addressed informally, then, if appropriate, it will seek to enforce compliance through the courts.

The EFA will also consider evidence that an academy has failed to comply with any other legal obligation placed on it. However, there may be another organisation that is better placed to consider the matter, in which case the EFA will refer the complainant or the complaint to them. This may include, but is not limited to, a court of law or other tribunal of competent jurisdiction, local authorities or regulatory bodies. Enforcement of any breach of a legal obligation will either be through the mechanisms of the organisation to which the complaint has been referred or by the EFA, whichever is appropriate.

### **Responsibilities on academies**

4. Academies must make available on request a procedure for dealing with complaints. For complaints from parents of pupils, this procedure must comply with The Education (Independent School Standards) Regulations 2010 and offer:
  - an opportunity to resolve the complaint with the academy on an informal basis, for example through discussion with a senior member of staff;
  - a formal complaint stage when the complaint is made in writing and usually responded to by the chair of governors; and
  - a hearing with a panel set up by the academy trust, comprising at least three people not directly involved in the matters detailed in the complaint, one of whom must be independent of the management and running of the school.

### **What the EFA will not investigate**

5. **We will not investigate** complaints about:
  - examination results or curriculum content where a more appropriate form of redress would be the examining body or Ofqual;
  - safeguarding or child protection matters, which should be taken up with the academy's Local Safeguarding Children's Board;
  - a child or young person's Statement of Special Educational Need where there is another route of appeal, for example the First-Tier Tribunal (Special Educational Needs and Disability) Service formerly the Special Educational Needs and Disability Tribunal (SENDIST):  
<http://www.justice.gov.uk/tribunals/send>;

- incidents that are subject to a current investigation by the Local Government Ombudsman; and
  - matters that are the subject of legal action.
6. We will not usually investigate complaints more than 12 months after the decision or action was taken unless the complainant has good reason for the delay in making the complaint.
7. We reserve the right not to investigate complaints considered to be vexatious or malicious or where we are satisfied with the action that the academy has already taken or proposes to take to resolve the complaint.

### **What the EFA will investigate**

8. The EFA will investigate complaints about:
- undue delay or non-compliance with an academy's own complaints procedure;
  - an academy's failure to comply with a duty imposed on it under its funding agreement with the Secretary of State; or
  - an academy's failure to comply with any other legal obligation, unless there is another organisation better placed to consider the matter.

### **Complaining to the EFA about an academy**

9. The EFA will deal with complaints about academies in accordance with the following principles.
- Academies should be receptive to genuine expressions of dissatisfaction.
  - Complaints are dealt with promptly, fairly and proportionately; they are also resolved at the most local level possible.
  - In dealing with complaints the EFA will take account of its public sector equality duty (under the Equalities Act 2010).
10. Where possible, complainants will be asked to put their complaint in writing. If the complainant has difficulty in providing details in writing, we will consider alternative ways of receiving the information.
11. Complaints about academies should be sent:
- Via the Department for Education's [school complaints form](#).
  - By post to Department for Education, Castle View House, East Lane, Runcorn, Cheshire, WA7 2GJ

## **Receiving a complaint**

12. Complaints will be acknowledged in writing within 5 working days. The complaint will be allocated to a named case officer who will contact the complainant and consider the complaint in line with this procedure.

## **Assessing the complaint**

13. Correspondence about a complaint that falls outside of the definition in paragraph 8 above will be responded to within 10 working days of sending the acknowledgement explaining why EFA is unable to investigate. Where possible, information will be given about what the complainant can do instead. However, their complaint will not be taken further under this procedure.

14. The EFA may require further information before it can decide whether or not to investigate a complaint under these procedures. If so, the EFA will write within 10 working days of sending the acknowledgement setting out the details of what is needed. This may, for example, be a request for confirmation that all stages of the academy's complaints procedure have been followed or further information about any delays being experienced by the complainant.

15. Before we begin an investigation, the complainant will be asked to:

- agree a summary of the complaint prepared by the EFA;
- give permission to the EFA to disclose details of the complaint to the academy concerned; and
- give permission to the EFA to seek confirmation from the academy that its complaints procedure has been followed through all its stages.

16. This request will be sent within 10 working days of sending the acknowledgement.

## **Investigation**

17. The EFA will consider the response from the complainant and, if appropriate, amend the summary of the complaint before sending it to the academy. The summary will be sent to the academy within 5 working days of receipt of the response from the complainant.

18. The academy will be asked to provide:

- a copy of its complaints procedure and details of any other relevant procedures;

- an explanation of how each stage of its complaints procedure has been followed; and
- a response to the summary of the complaint together with relevant documents.

The academy will be asked to respond within 10 working days and, if necessary, to explain why this information should not be shared with the complainant, for example if the documents include data belonging to individuals not involved in the complaint.

19. The EFA will forward the academy's response to the complainant within 5 working days of receipt.

20. The complainant will then be asked to confirm within 5 working days whether they:

- are satisfied with the response, in which case the EFA will close the case; or
- wish to pursue the matter further

21. Where the complainant remains dissatisfied with the response, the EFA within 10 working days will make a provisional decision based on the evidence gathered and send this to both parties.

22. Both parties will be asked to comment on the provisional findings within 10 working days.

### **Adjudication**

23. The EFA will consider any responses from both parties and any new evidence available on whether or not the academy was in breach of its funding agreement. The EFA will then confirm its findings and decision in writing within 5 working days of receiving the last response to its provisional findings, or 15 working days from sending out the provisional findings, whichever is the later.

24. Once EFA has informed all the parties concerned of its decision, it will consider the complaint closed.

### **Actions**

25. The actions the EFA takes will depend on the nature of the complaint and the extent to which it is upheld. Such actions may include:

- asking the academy to review its procedures to ensure there is no recurrence (e.g. breach of the funding agreement); or

- asking the academy to review its decision on the complaint submitted to it, or change its procedures for reaching the decision if they are non-compliant with statutory requirements.

26. If the academy does not comply with the actions, the EFA may on behalf of the Secretary of State, if appropriate, seek to enforce its decision through the courts under the terms of the funding agreement.

Summary of procedure

