

# Guidance

## How ESFA handles complaints about academies

Updated 16 July 2020

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### 1. ESFA's remit in relation to academy complaints

Before escalating an academy complaint to us, you should first complain to the academy. You should follow the academy's complaints procedure.

We cannot change an academy's decision about a complaint. Our role is to make sure the academy handles your complaint properly.

We will only be able to consider your complaint if you can provide evidence that the academy:

- does not have a complaints procedure
- did not provide a copy of its complaints procedure when requested
- does not have a procedure that complies with statutory regulations
- has not followed its published complaints procedure
- has not allowed its complaints procedure to be completed

We are not able to:

- overturn the governing body's decision
- re-investigate your original complaint
- review the accuracy of minutes taken or documents provided
- order the academy to pay you compensation
- direct the academy to discipline / exclude pupils
- force the academy to discipline / dismiss staff
- instruct the academy to apologise to you

### 2. Responsibilities of academies

Academies must have a written complaints procedure that tells you how you can make a complaint and how the academy will handle it. This should be available on request to parents. We also recommend that academies publish their complaints procedure online.

An academy's complaints procedure must:

- give clear timescales for the management of complaints
- provide opportunity to make and resolve the complaint on an informal basis
- set out a formal procedure for the complaint to be made in writing when you are not satisfied with initial informal outcomes
- allow for a panel hearing to be set up by the academy trust when the complainant is not satisfied with the outcome of the written complaint. The panel must include at least 3 people who are not involved in matters detailed in the complaint. One member of the panel must be independent of the management and running of the school.
- allow parents to be accompanied if they wish to attend the panel hearing
- allow for the panel to make findings and recommendations with a copy of the outcome information provided to the complainant and, if relevant, the person complained about. The outcome information must be available for inspection on the school premises by the proprietor and the head teacher.
- require written records of all complaints including details of how they are resolved, and action taken by the academy as a result of the complaint
- require records relating to individual complaints remain confidential except under certain circumstances including Secretary of State request and inspection.

### 3. Complaints not in ESFA's remit

We are not able to help with:

- a child or young person's [statement of special educational need](#)
- child protection. You should raise concerns with your local authority designated officer (LADO) and/or the Director of Children's Services using the [report child abuse to local council](#) GOV.UK page
- a child or young person's [education, health and care plan \(EHCP\)](#). You may find speaking with your [local information, advice and support service](#) helpful. This body is independent of the local authority and can provide impartial advice about the law on SEND, local SEND arrangements and support for your child's needs. More information about SEND is available on the [First-tier Tribunal \(Special Educational Needs and Disability\)](#) webpage.
- the quality of education or leadership, or concerns affecting the school as a whole, which OFSTED addresses through inspections (see the [schools inspection guide for parents](#))
- academy employment matters. You will need to raise these through the academy's grievance procedure or an [employment tribunal](#).
- teacher misconduct. You should refer the matter to the [Teaching Regulation Agency](#)
- discrimination. You can raise complaints about this with [Equality Advisory Support Service](#)
- data protection. You can raise complaints about this with [Information Commissioner's Office](#)
- exam malpractice or maladministration. You should raise any complaints with the [Office of Qualifications and Examinations Regulation \(Ofqual\)](#) or the relevant awarding body
- criminal cases. Please report these to the police

We have separate guidance about academy [independent admission appeal panel complaints](#).

### 4. Complaints about academy exclusions

We can only consider complaints about exclusions where the academy has not complied with the [exclusion from maintained schools, academies and pupil referral units in England statutory guidance](#).

We cannot comment on the fairness of an exclusion, but only on whether an academy has followed the process correctly. In the case of permanent exclusions, we cannot overturn the decision of an independent review panel (IRP) but only investigate allegations of maladministration of the panel.

We are not able to consider:

- complaints about the decision to exclude, or overturn the decision
- complaints where the academy has not attempted to complete the exclusion review process
- complaints about a managed move to another educational setting because parents / carers must agree these with all parties involved. If you wish to complain about a managed move, you should follow the academy's complaints procedure.
- general complaints where you do not want to challenge the exclusion. If you wish to complain about the way the academy handled the exclusion, you would need to follow the academy's complaint procedure.

### 5. How ESFA assesses complaints

Our role in handling your complaint is to consider whether the academy followed the correct process. We will not investigate the substance of the complaint or the academy's decision.

We will not normally consider complaints received more than 12 months after a decision or the academy's last action.

We reserve the right not to consider complaints that:

- are, or have been, subject to legal action
- are malicious (that is, they are without sufficient grounds and serve only to cause annoyance)
- use obscene, racist or homophobic language
- threaten or contain personally offensive remarks about members of our staff
- are repeatedly submitted with only minor differences after we have fully addressed the complaint

#### 5.1 Information we need (complaints)

So that we can tell you quickly whether we are able to consider your case, we need:

1. a brief summary of what your complaint to the academy was about
2. copies of any emails / letters sent and received as part of the academy's complaints procedure. For the panel hearing stage, we will also need the names of the panel members, along with the minutes (if provided) and the outcome letter
3. a timeline of events including:
  - when the incident(s) you are complaining about occurred
  - dates when you raised an informal complaint and when the academy responded
  - dates when you submitted a formal complaint and the academy responded and when any meeting(s) occurred
  - dates when you escalated the complaint to a panel hearing, when the academy acknowledged this and the date of the panel hearing
  - where appropriate, the date, acknowledgement and response to any additional stage in the academy's complaints process

If the academy has prevented you from completing the complaints policy, we need:

1. a brief summary of what your complaint to the academy was about
2. a timeline of events including:
  - when the incident(s) you are complaining about occurred
  - what stage of the complaints procedure you have reached
  - what attempts you have made to progress your complaint and what (if any) responses you have received

If you do not supply the above information when you contact us, we may reject your case and ask you to contact us again with the evidence needed.

#### 5.2 Information we need (exclusions)

So that we can tell you quickly whether we are able to consider your case, we need:

- the reasons given for the exclusion
- any correspondence that you have had with the academy about the matter
- information provided to you by the academy about how to make representations about the exclusion
- confirmation of the stage in the exclusion process you have reached
- minutes of meetings with the academy/trustees and dates that the meetings took place
- confirmation that your case involves your local authority and it has contacted you about your child being out of education
- for a **managed move** evidence that this was not agreed to by you
- for a **fixed period exclusion** the start and end dates
- for a **fixed permanent exclusion** confirmation that the exclusion is permanent

If the academy has prevented you from completing the exclusions review process, or you feel the academy has failed to follow statutory guidance or legislation, we need:

1. a brief summary of any breaches that have occurred
2. a timeline of events including:
  - when the incident(s) you are complaining about occurred
  - what stage of the exclusion review process you have reached
  - what attempts you have made to progress your complaint and what (if any) responses you have received

If you do not supply the above information when you contact us, we may reject your case and ask you to contact us again with the evidence we need.

#### 5.3 First steps

When we receive a complaint, we will send you an acknowledgement within 3 working days. If it is clear that your complaint does not fall within our remit, we will let you know at this point.

We will then pass your case to a named case officer, who will review the information you have supplied. If the information indicates that the complaint is not within our remit, we will reject your case and let you know why. This may be because:

- you have not followed the complaints procedure
- you have not completed the complaints procedure and are not able to provide evidence that the academy prevented you from doing so
- you want us to investigate the original complaint
- the complaint is the responsibility of another organisation

If we cannot determine whether your complaint falls within our remit, we will close your case and ask you to provide further information.

If the information provided indicates that the case does fall within our remit, we will write to you to confirm this and to tell you how we will handle your case. If aspects of your complaint fall outside of our remit, we may provide you with details of organisations that could provide further advice and guidance.

#### 5.4 Next steps

Where there is evidence that the academy may not have handled your complaint correctly, we will:

- provide the academy with a summary of your complaint and invite them to provide us with evidence of how they handled your complaint.
- continue to make enquiries with you and the academy until we have understood what happened, and can tell you and the academy what needs to happen next.

The length of time it takes to investigate a complaint varies. We aim to complete all enquiries as quickly as possible. The number and complexity of queries on a case, as well as factors such as school holiday periods, affect how long it will take to complete our investigation into your complaint.

We will keep you up to date with our progress throughout our investigation.

If you do not respond to our enquiries by the date provided, we will send you a reminder. If you do not respond after that, we will close your case. If you contact us after we have closed your case, we may ask you to submit a new contact us form and open a new case.

#### 5.5 Outcome of cases

We will write to you with the outcome of our investigation. The academy will also receive a copy of our findings and your case we will then close your case.

If we uphold your complaint, we may do one or more of the following:

- ask the academy to change its complaints procedure so that it complies with legal requirements
- ask the academy to reconsider your complaint from an appropriate stage in their procedure
- remind the academy of their requirements to comply with their complaints policy
- remind the academy of their requirements to comply with the legislation and statutory guidance (complaints about exclusions)
- monitor future exclusions at the academy (complaints about exclusions)

If the academy does not comply with the recommended actions, we may seek to take action on behalf of the Secretary of State under the terms of the funding agreement (the contract that the Secretary of State holds with an academy).

If we become aware, through a complaint made to us, that an academy is in breach of its funding agreement, we will address this directly with the academy. We do not routinely inform complainants of actions taken directly with academies.

### 6. Further reading

An academy's complaints procedure must comply with part 7 of the [Education \(Independent School Standards\) Regulations 2014](#).

Academy trusts must adhere to the [exclusion from maintained schools, academies and pupil referral units in England](#) statutory guidance (annex C is a guide for parents / carers).

### 7. Contacting ESFA

If after reading this guide you think we should consider your complaint, please contact us using our online [enquiry form](#) and tick the box that says complaint.

Using the enquiry form is the quickest way to contact but we can accept hard copy documents sent to:

ESFA – Academies Complaint and Customer Insight Unit  
 Cheylesmore House  
 Quinton Road  
 Coventry  
 CV1 2WT

We ask that you do not submit original documents and what you do send relates solely to the complaint you have asked us to consider. Please be aware that we are not able to return the document you send to us.

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