

Guidance for School Governing Bodies on Procedures for Complaints involving Pupils

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Guidance
Circular



School
Governance &
Management



- Title of document:** Guidance for School Governing Bodies on Procedures for Complaints involving Pupils.
- Audience:** Governing bodies and headteachers of maintained schools in Wales, local authority education and social services departments, diocesan authorities, teacher and staff unions, statutory and voluntary bodies concerned with children's rights.
- Overview:** The document contains guidance for school governing bodies and headteachers on establishing procedures for dealing with complaints in which pupils are involved as complainants, witnesses or as the subject of a complaint. This guidance is supplementary to the guidance issued by the Welsh Assembly Government to governing bodies in Circular 03/2004 'School Governing Body Complaints Procedures'. Both documents are obtainable on the Assembly Government's website at www.new.wales.gov.uk/topics/educationandlearning
- Action required:** Governing bodies need to ensure their complaints procedures include effective procedures for dealing with complaints involving pupils.
- Further information:** The contact number for enquiries about this circular is Tel: 029 2082 6051 or Fax: 029 2082 6109.
- Additional copies:** Can be obtained by telephoning 029 2082 6051 or faxing 029 2082 6109, or from the Assembly's website www.new.wales.gov.uk/topics/educationandlearning
- Postal address:** Schools Management Division,
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- Related documents:** National Assembly for Wales Circular 03/2004 'School Governing Body Complaints Procedures' issued in May 2004.
Working Together to Safeguard Children: A Guide to Inter-Agency Working to safeguard and promote the welfare of children – National Assembly for Wales: March 2000.
Safeguarding Children: Working Together for Positive Outcomes: National Assembly for Wales: March 2004.
Framework for the Assessment of Children in Need and their Families: National Assembly for Wales and Home Office 2001.
National Assembly for Wales Guidance Circular 23/2003 'Respecting Others: Anti-Bullying Guidance': September 2003)

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SUMMARY

The Welsh Assembly Government is committed to the principles of the UN Convention on the Rights of the Child as the basis for its dealings with children and young people. Based on the Convention the Assembly Government holds as one of its core aims that all children and young people should be listened to and treated with respect.

Children and young people need to understand their right to complain and that the school will help them to access appropriate support if they make a complaint or are involved in a complaint case.

Under Section 29 of the Education Act 2002, governing bodies are required to put in place procedures for dealing with complaints, including complaints by pupils. NAW Circular Guidance 03/2004 'School Governing Body Complaints Procedures' was issued in May 2004 and is available at www.new.wales.gov.uk/topics/educationandskills.

The guidance in this Circular is supplementary to NAW 03/2004 and should be read in conjunction with it.

- Section 1 -** Sets out the legal framework.
- Section 2 -** Explains the principles of a pupil complaints procedure, what a procedure should contain, and how a pupil may be involved in a complaint.
- Section 3 -** Explains how governing bodies should deal with complaints from pupils and gives guidance to members of staff on listening and responding to complaints.
- Section 4 -** Covers the use of advocates and support for pupils and collating evidence from pupils.
- Section 5 -** Explains how pupils can be involved in complaints.
- Section 6 -** Explains the role of the Children's Commissioner and other organisations.

SECTION 1: LEGAL AND POLICY BACKGROUND

The Legal Framework: The Education Act 2002

1.1 Section 29(1) of the Education Act 2002 (the Act) which came into force in Wales on 1 September 2003 requires governing bodies of all maintained schools to establish procedures for dealing with complaints relating to the school or to the provision of community and other facilities or services under section 27 of the Act, other than complaints falling to be dealt with in accordance with other statutory provisions ie child protection, staff disciplinary matters, admissions, pupil exclusions etc. Section 29 also requires a governing body to publicise its procedures. Section 29(2) requires a governing body to have regard to guidance issued by the National Assembly for Wales in establishing and publishing such procedures.

1.2 NAW Circular 03/2004 'School Governing Body Complaints Procedures' was published in May 2004 and is available at www.new.wales.gov.uk/topics/educationandskills. It includes statutory guidance on the content of a complaints procedure and its publication. It also set out the Assembly Government's intention to issue supplementary guidance dealing specifically with complaints involving pupils.

1.3 The guidance in this document has the same status as the guidance in Circular 03/2004. Accordingly elements of this supplementary guidance that are statutory are:

- the content of a pupil complaints procedure (paragraph 2.6), and
- the publication of a pupil complaints procedure (paragraphs 2.22 - 2.23).

1.4 The Welsh Assembly Government expects governing bodies to have regard to the statutory elements of this guidance and to follow it when dealing with complaints involving pupils, unless the governing body has compelling reasons for concluding that in the particular circumstances of their school this guidance is not relevant. In the event of any challenge to either the content of a pupil complaints' procedure or the publication arrangements, a governing body would need to be able to demonstrate that it had had regard to the guidance on these matters and had either followed it or had a sound justification for not doing so.

1.5 The remainder of the guidance is non-statutory. The Welsh Assembly Government expects governing bodies to take account of its recommendations, but governing bodies are free to develop complaints procedures to suit the circumstances of the school.

Policy Background

1.6 The Welsh Assembly Government is committed to the principles of the UN Convention on the Rights of the Child as a basis for its dealings with children and young people. In his 2002-03 Annual Report the Children's Commissioner also refers to complaints initiated by children and young people as "a crucial process in safeguarding children's interests". In his 2004-05 Annual Report the Commissioner highlighted several key messages from children including "a complaint is the first step to making things better by having the confidence or guts to speak out about something that is wrong or bothers you", and "if you make a complaint you need to know who to complain to", and more importantly, "children and young people don't feel that adults always treat them with respect and that they aren't listened to or taken seriously or people always think the worst".

1.7 In the consultation on this guidance that the Welsh Assembly Government carried out with children and young people the key messages from children were that they wanted:

- to be trusted and to talk to someone they trusted and who was approachable and friendly
- to be listened to and believed
- to be taken seriously and treated with respect
- to be treated equally and fairly and not be judged
- confidentiality, and
- for their complaint to make a difference in school

1.8 There have been cases in the education sector and in the social services context which show that the voices of children and young people have not always been heard. The Children's Commissioner's Report into Allegations of Child Sexual Abuse in a School Setting - "The Clywch Inquiry Report" published in June 2004 deals with one such case. Lessons learnt from these cases are that children and young people need to be aware of and understand their right to complain and to be permitted appropriate support if they make a complaint. It is also important that rights of pupils are protected if they become involved in a complaint case as a witness or as the subject of the complaint.

1.9 Pupils need to have confidence in and understand the procedures and range of outcomes from the outset. Clear information and straightforward procedures are essential. Treating all complaints seriously and responding to them quickly often means they can be resolved at an early stage and without recourse to full complaint hearing procedures. Schools may wish to consider having a dedicated pupil complaints officer as the first step to resolving complaints involving pupils.

SECTION 2: THE PURPOSE, ROLE AND PRINCIPLES OF A PROCEDURE FOR COMPLAINTS INVOLVING PUPILS

Purpose of a Pupil Complaints Procedure

2.1 For the purposes of this guidance a complaints procedure:

"Is a way of ensuring that anyone with an interest in the school can raise a concern, with confidence that it will be heard and addressed in an appropriate and timely fashion."

2.2 A pupil may be involved in a complaint as:

- the complainant
- a witness
- the subject of a complaint
- an associate governor or a member of the school council involved in supporting the pupil making the complaint.

2.3 A pupil complaint may be about:

- an event
- an aspect of school life
- a school policy or its application
- the delivery of school services
- the behaviour of an individual(s) or an organisation
- something that affects more than one pupil
- something that has happened outside school which has direct relevance to the school or
- a complaint made on behalf of another pupil.

Role of a Pupil Complaints Procedure

2.4 The governing body should ensure that:

- all pupils know and understand that they have a right to make a complaint and the right to have advocacy support
- pupils are clear how they can express complaints, and how they will be responded to at each stage

- staff and governors are clear about their roles and responsibilities in responding to pupil complaints: schools may wish to consider identifying specific members of staff with a responsibility for dealing with complaints involving pupils
- the school can learn lessons and improve procedures as a result of monitoring complaints cases
- all parties are assured of a consistent, documented approach.

Principles of a Pupil Complaints Procedure

2.5 Welsh Assembly Government considers that pupils have the right:

- to make a complaint about any issue concerning the school, including the actions of a member of staff,
- to be listened to,
- to have complaints taken seriously,
- to be dealt with fairly and consistently,
- to receive reassurance, encouragement and have advocacy support throughout the process if required,
- to receive honest and realistic advice throughout the process and about the possible outcome,
- to have complaints resolved at the earliest opportunity and with careful consideration of the interests of any pupil affected,
- to be kept informed of developments and the eventual outcome.

Content of the Pupil Element of a Complaints Procedure

2.6 This should include:

- roles and responsibilities of all those involved including a dedicated pupil complaints' officer where appointed
- procedures for dealing with pupil complaints of various types
- timescales for dealing with pupil complaints
- procedures for recording and monitoring pupil complaints
- procedures for implementing any actions arising from the resolution of pupil complaints or from monitoring trends
- information on how a pupil could access advocacy support (if wanted) and what sort of advocacy support is available.

Developing or Amending School Complaints Procedures to Include Complaints Involving Pupils

2.7 In producing or adapting school complaints procedures to include complaints involving pupils, the governing body may need to:

- consider and, as necessary, amend existing procedures in the light of this guidance - eg the governing body might wish to consider amending procedures for making a complaint to include complaints received via 'complaints/bullying' boxes
- ensure the procedure is in a format and uses language that is accessible to pupils
- consult staff, parents and pupils
- formally adopt and implement any new procedures
- consider guidance or training requirements for pupils, staff or governors
- ensure that all parties are made aware of the procedure by publicising it effectively
- consider providing guidance for adults in the school on collating evidence
- consider pupil involvement in complaint resolution.

2.8 Pupils may need guidance or assistance with regard to:

- the complaints procedure and how to use it
- the role of the school council in considering complaints on whole school issues
- the role of associate pupil governors or members of the school council in supporting pupils making a complaint
- support techniques associated with resolving potential complaints eg peer mentoring, anti-bullying support etc
- the availability of suitable adults/advocates to assist pupils in taking complaints forward, and/or assisting them to access advocacy services.

2.9 As for any other group of complainants - pupils need to be clear that untruthful allegations can be upsetting and disruptive for all involved. At the same time pupils need the assurance that their complaints will be taken seriously, dealt with sensitively and will not lead to bullying or victimisation. Procedures where evidence is collected and considered fairly and speedily is in everyone's interest.

Confidentiality

2.10 Pupils need to know that as far as possible complaints will be dealt with on a confidential basis. However, if the complaint involves child protection allegations which relate to a potential criminal act or indicate that a child has suffered or is likely to suffer significant harm, confidentiality cannot be maintained. The adult should stop their investigation and explain that the complaint will need to be passed on for the safety or welfare of the complainant or any other child or children affected. The complaint or allegation must then be referred immediately to the headteacher or if the complaint is about the headteacher to the chair of governors to initiate the child protection procedures through the statutory authorities and the Area Child Protection Committee, to be known as the Local Safeguarding Children Board (LSCBs) from October 2006. Wherever possible the pupil's consent to sharing the information should be obtained. If this is not possible - either because the pupil refuses or because of the nature/urgency of the situation - the safety and welfare of the child still dictates that the information must be shared. The adult should reassure the child that he or she will be kept informed of progress.

2.11 Procedures for sharing information should be in line with paragraphs 7.27 to 7.51 of the National Assembly for Wales' document - Working Together to Safeguard Children: A Guide to Inter-Agency Working to Safeguard and Promote the Welfare of Children - published in March 2000, and Appendix 3 to the document Safeguarding Children: Working Together for Positive Outcomes: National Assembly for Wales: March 2004, and any subsequent guidance issued by the Welsh Assembly Government.

2.12 Where the matter is wholly for the school to handle the member of staff will need to consider whether anyone else within the school needs to know about the complaint so as to address it appropriately. Information should be shared on a strictly 'need to know' basis to protect the interests of the pupil and any pupil or staff member named in the complaint. This could mean referral to a member of staff with general responsibility for complaints or complaints from pupils, or a member of the senior management team.

2.13 Taking into account the age and understanding of the pupil, the member of staff needs to talk to the pupil about who else will be informed and how and when that will happen. The member of staff will need to assure the pupil that the matter will be disclosed only to people who need to know about it so that it can be resolved. The names of any members of staff with particular expertise and responsibility for resolution of complaints must be provided to all other staff members.

2.14 A complaint or allegation made by a pupil to a member of staff may initially appear to be a minor issue but on investigation is identified as a more serious matter where referral to a senior member of staff is appropriate. If the issue turns out to involve child protection matters, including any allegation involving child protection matters against

another member of staff, the adult approached by the pupil must stop any investigation and explain to the pupil that the matter cannot be kept confidential and what the child protection procedures are.

2.15 In monitoring and reporting to the governing body on the incidents and types of pupil complaints received, details of individual complaints will need to be anonymised. Care must be taken to keep any documentation secure and the names of any pupil or member of staff confidential. The advice given in paragraphs 52 and 53 of the NAW Circular 3/2004 'School Governing Body Complaints Procedures' covers reporting and monitoring of complaints.

Equality of Rights

2.16 Schools need to ensure fair hearing and fair treatment for everyone using the complaints procedure treating pupils and adults as having equal rights. However, a pupil's knowledge, understanding, experience and skills in self-expression may place them at a disadvantage alongside adults. Advocacy and other arrangements are intended to redress this by balancing support for pupils with the entitlement of staff and other adults to be supported during the investigation of any complaint in which they are mentioned (see paragraphs 4.5 - 4.10 on advocacy). The complaints procedure will need to address the issue of how pupils are to be supported, but some approaches are:

- advocacy,
- asking the pupil to write down their complaint, or if the pupil is unable to do this, asking someone else (a member of staff or another pupil) to write down the complaint and read the complaint back to the pupil so that s/he can check that the complaint is properly and fully described,
- a buddy scheme as part of pastoral care,
- having staff who are trained in dealing with complaints,
- parental support - though only if the pupil agrees to their parent(s) being informed,
- having staff who are trained in dealing with complaints through a dedicated pupil complaints officer.

2.17 The rights of adults are not to take precedence over the rights of any pupil involved. No one should be subject to any reprisal, or less favourable treatment than others, because they have made a complaint.

Evidence

2.18 There will be cases where a pupil is not able to substantiate a complaint or would find it difficult to do so, for example if only they and

the person complained about were present. In these cases those involved in providing support as set out in paragraph 2.13 may be able to help the pupil to substantiate the complaint.

2.19 A judgement that a complaint is untrue and malicious cannot be reached until an investigation has established, on the balance of probability, that the complaint is either untrue or motivated by malice. If, on investigation the judgement is that a complaint is not proven it must not be assumed that the complaint was made mischievously or with malice. It may be that a complaint or allegation arose from a misunderstanding or that the truth of the matter cannot be discovered.

2.20 Untrue and malicious complaints are distressing and potentially damaging for the person complained about and a waste of time for all involved in the investigation. The governing body will need to ensure that pupils are aware that raising a complaint is a serious matter, that complaints will be taken seriously but that false and malicious complaints are damaging and may lead to disciplinary action against the pupil. The school should state in its pupil behaviour and discipline policy what the disciplinary action will be in the event of evidence of a false and malicious complaint. However this needs to be set in the context of making clear that disciplinary action will not follow if it is clear that the complaint arose from a misunderstanding or that the truth of the matter could not be established. Schools also need to bear in mind that false allegations may arise from difficulties the pupil has in coping with school or outside school and action instead of or in conjunction with disciplinary action may be necessary.

2.21 The governing body will need to make clear in their procedures for pupil complaints:

- how they expect pupils to provide evidence
- how members of staff can use the investigation process to address the absence of evidence
- how pupils are made aware of their responsibilities
- how support is offered for pupils.

Publication of the Procedure

2.22 Publication requirements are set out in paragraphs 24 and 25 of NAW Circular 03/2004 'School Governing Body Complaints Procedures' These are statutory requirements and must be complied with by governing bodies. This includes the requirement to provide pupils with a copy of the complaints procedure.

2.23 Governing bodies should have a single complaints procedure suitable for use by adults and pupils. This can be published in a format that is suitable for both adults and pupils, although governing bodies may wish to publish the procedure in separate formats to ensure that pupils have appropriate, accessible information about what to do if they have a

complaint. Publication needs to take account of any special communication needs individual pupils may have, bearing in mind the school's responsibilities under The Disability Discrimination (Prescribed Periods for Accessibility Strategies and Plans for Schools) (Wales) Regulations 2003 to ensure that pupils with disabilities are provided with the information in an accessible format. Publication arrangements might be by means of:

- home-school agreements
- homework diaries
- pastoral sessions, led by form tutors, heads of year or classroom teachers, PSE lessons or school assemblies
- the school prospectus or newsletter
- an information booklet for pupils
- leaflets or small wallet/purse size cards that include contact details for help
- information posters around the school
- school website
- peer mediation and mentoring schemes
- school councils.

2.24 Annex A to this Circular is a text which schools can customise and reproduce as an information leaflet for pupils and parents.

Recording, Reporting and Reviewing Complaints Involving Pupils

2.25 In paragraphs 46 to 51, 70 and 91 of NAW Circular 03/2004 the Welsh Assembly Government recommends that all complaints are recorded, together with action taken in response. This extends to complaints involving pupils. Complaints can provide important insights into the views of pupils and provide opportunities for improvement in school provision.

2.26 In accordance with the guidance given in paragraphs 52 and 53 of Circular 03/2004, governing bodies may wish to make a periodic report on numbers and types of complaints available to teachers, pupils and others with an interest in the school and to other schools for the purpose of learning lessons and sharing good practice. Information should be anonymised and any references to names of pupils or members of staff should be removed. The governing body should decide who is to record and report complaints - it could be the headteacher, chair of governors or clerk to the governing body.

SECTION 3: HANDLING COMPLAINTS MADE BY PUPILS

Introduction

3.1 When making a complaint a pupil needs to:

- be listened to
- have the problem accepted as important
- be offered a solution or explanation
- have any distress acknowledged
- understand the process by which the complaint will be handled
- be assured that steps will be taken to try to ensure that the same thing will not happen again
- be offered support/help
- be treated fairly
- have explained to them the boundaries of confidentiality.

3.2 The effective hearing and resolution of complaints is a participatory process. It is essential that the pupil is able to fully discuss his or her concerns, is given time to be heard fully and fairly and is offered support, if possible through an advocacy arrangement. The arrangements must ensure pupils with disabilities can make a complaint and fully understand the complaints process.

3.3 Training for and the resolution of complaints involving pupils by members of staff must not add to a member of staff's workload without their agreement, and must take account of the National Agreement on Raising Standards and Tackling Workload. Schools may wish certain members of staff to develop expertise in dealing with complaints involving pupils. If so they will need to take account of this additional responsibility when timetabling the member of staff's teaching role. Staff, or the pupil complaint's officer where there is one, assisting a pupil or handling a complex case will need to be allowed time to do this.

Guidance for Adults on Listening and Responding to Pupil Complaints

3.4 The following bullet points are a quick reference guide for adults to assist them in dealing with complaints involving pupils:

- Initial reaction

Take what the pupil says seriously and treat them with respect. Be prepared to take responsibility for hearing and resolving the complaint.

- Listening to pupils

Pupils who report a complaint to an adult must be listened to, whatever form their attempts to communicate their worries take. Account should be taken of the age and understanding of the child and whether the child has any disabilities or problems in communicating. Make the space and time to listen properly to what the pupil has to say, or arrange a time when you can do this without interruption. Listen without expressing an opinion in words or attitude. Listen without interrupting the pupil when they are recalling significant events.

- Clarifying and recording

Pupils may need a lot of time if they are distressed so give the pupil time to tell their story at their own pace. Be calm and patient. Ask single questions and avoid leading questions. Assure them that the issue will be taken seriously, but be cautious about predicting outcomes. Check with them you have understood properly and ask what remedy they want, but explain to the child that the outcome may not be possible and give the reasons why. Make a record of the complaint and check its accuracy with the pupil. Give a copy to the pupil.

- Child protection complaints

Inform the pupil that you will keep anything that they say confidential as far as is possible, and if they reveal anything which means that you have serious concerns that their complaint relates to child protection matters and that they or other pupils may be at risk of being harmed then you will have to pass information on to a third party ie the headteacher or if the complaint is about the headteacher to the chair of governors so that the statutory authorities can be informed and the agreed Area Child Protection Committee (ACPC), to be known as the Local Safeguarding Children Board (LSCB) from October 2006, procedures can be started. Give the child reassurance that their complaint/allegation will be taken seriously and investigated, and that they will be kept informed of progress. Wherever possible the pupil's consent to sharing the information should be obtained. If this is not possible - either because the pupil refuses or because of the nature/urgency of the situation - the safety and welfare of the child still dictates that the information must be shared. The adult should reassure the child that he or she will be kept informed of progress.

- Basic information

Check whether the facts are clear and whether you need further information.

- Involvement of others

Consider what support might you or the pupil need in dealing with this complaint. Can the school offer or arrange advocacy or peer support for the pupil? If not do you know where an advocate can be found? Consider and talk to the pupil about whether the teacher designated to deal with 'looked after' children issues, the teacher designated to lead on child protection, the SEN co-ordinator or the child's parents, guardian or carer should be contacted. If the pupil agrees these people should be contacted and informed of the pupil's complaint as soon as possible. Ensure only those who need to know are told of the complaint and the child is aware who they are. If the complaint involves child protection allegations the pupil must be informed that the matter must be referred to a third party (see above).

- Assessing the situation

Are you the right person to deal with the complaint? Should it be referred to another member of staff ie head of year or head of a department or a more senior member of staff? Is there a designated member of staff responsible for complaints from pupils? What type of complaint is it? Do other procedures apply? Tell the pupil if you need time to think about what they have said or if you need to seek advice, explaining where you will seek advice, and that you will do so as soon as possible. Give the child a timescale for your consideration and arrange to speak to them again. Remember if the issue involves child protection allegations the matter must be referred immediately to the statutory authorities (see para 2.10).

- Take appropriate action

Is there something that can be done whilst the complaint is being processed that is acceptable to the complainant? If the complaint involves child protection matters immediate action must be taken to prevent the pupil or others from being harmed.

- Problem resolution

Establish whether this is an issue capable of resolution informally or needs to be handled as a complaint. Explain the complaints' process to the pupil and give the pupil a copy of written information produced by the school. Aim for a realistic solution which is acceptable to the complainant and which you can deliver. Often a pupil just wants an apology and the incident to stop. Let the pupil decide whether they are satisfied with the eventual resolution of the complaint.

- Learning and recording

Record what has happened, the outcome and any lessons learnt from the complaint and changes to be made ie change of policy, and submit the

information for inclusion in the school's record of complaints. Give a copy to the pupil. The headteacher or relevant senior staff member should review handling, consider whether similar complaints have been made in the past and monitor the ongoing situation. They should also review whether the outcome or lesson learnt has been implemented or is being maintained. Any records kept or report submitted to the governing body must be anonymised to ensure confidentiality. Documents must also be kept in a secure place.

Training for staff

3.5 All members of staff or nominated members of staff and others within the school should receive training on listening and responding to complaints from pupils, such training should be reviewed and updated on a regular basis. Its purpose is to ensure consistency of approach to dealing with complaints from pupils and to give pupils confidence in the system. Training should encompass listening skills, evidence gathering, identification of possible solutions, need for referral for consideration under other procedures (including child protection), confidentiality, complaint resolution, recording of outcomes and lessons learnt, handling of complaints relating to events outside school. Training should be offered over time to all school staff in recognition that any adult within the school may be approached by a pupil with a complaint. In accordance with the National Agreement on Raising Standards and Tackling Workload staff will need to be given time to attend training.

3.6 New members of staff should be made aware of the schools' complaints policy and receive training as soon as possible. Members of staff should receive support from the Senior Management Team as they develop expertise in this matter.

Complaints Made to Adults Within the School Setting

3.7 A pupil may make initial contact with any adult in the school or associated with the school to make a complaint. This may include teachers, peripatetic staff, youth workers, classroom assistants, caretaking staff, office staff, lunchtime or after school assistants, school governors and regular volunteers. Schools should identify the member of staff to whom any of those people should go; and all of these groups should be advised who that person(s) is.

3.8 Unless the complaint involves child protection issues - in which case the procedure at paragraph 2.10 should be followed - the adult should encourage the pupil to raise the matter under the school's complaints procedure and may wish to offer support to the pupil to do this.

Dealing with Pupil Complaints

3.9 The following are options for addressing complaints:

Staff Behaviour

- Annex A of NAW Circular 45/2004 'Staff Disciplinary Procedures in Schools' lists the type of staff behaviour to be considered under the schools staff disciplinary procedures.

Child Protection

- Reference to social services under child protection procedures if the pupil or other children are at risk in accordance with the procedure set out in paragraphs 5.5 to 5.17 of NAW Circular 45/2004.

Other Potentially Criminal Behaviour

- Reference to the police for allegations about other types of criminal behaviour ie fraud, theft, damage to property (school, pupil, member of staff's or others), drug taking/dealing.

3.10 If one of these options applies the relevant procedures take precedence over the complaints procedure and this must be explained to the pupil.

3.11 If the action remains in the hands of the governing body eg under the staff disciplinary procedure, the pupil should be kept informed of progress and as far as possible of the outcome, though the need to maintain confidentiality for the member of staff involved will need to be taken into account, and this should be explained to the pupil at the earliest opportunity.

Complaints that can be Resolved by the Member of Staff

3.12 In many cases a complaint may be easily and immediately resolvable by an adult and appropriate action taken. Alternatively the adult may be able to encourage the pupil to use pupil-led resolution approaches eg peer counselling. If a complaint is resolved by a member of staff without referral to another process, that fact should also be recorded. A copy of the outcome should be given to the pupil with the names of any pupils or members of staff anonymised as necessary.

Complaints Considered by the School Council

3.13 A complaint may relate to an issue that is not personal to the complainant but concerns many pupils. In this case the complainant(s) may wish to seek a resolution of benefit to all pupils through the school council. Such matters might include:

- homework
- school meals
- school transport
- organisation of the school day
- state of school toilets or other facilities
- school behaviour policy.

3.14 The member of staff might help the pupil(s) raise the issue at the next school council meeting by ensuring that the issue is put on the agenda, or help the pupil contact their school council representative.

3.15 If the complaint concerns an all school issue and agreement on a view as to its resolution is reached by the school council, a report of the school council's consideration and outcome should be prepared and presented to the headteacher and/or the governing body for consideration. Alternatively in a secondary school the associate pupil governor representatives could report the school council discussion at the governing body meeting.

3.16 It is not appropriate for the school council to consider complaints relating to either an individual, a pupil or a member of staff.

Complaints About Issues Covered by an Existing School Policy

3.17 Pupils may make a complaint about an issue covered by an existing school policy eg home-school agreement, curriculum, sex education, pupil behaviour and discipline, race relations, bullying, special educational needs, race equality or health and safety.

3.18 Resolution should be sought using the remedies set out in these policies. Where these remedies are not adequate or appropriate the governing body complaints procedure may need to be used.

Complaint About an Organisation or Individual Outside the School

3.19 Complaints may be about an out of school activity, an activity on school premises or a service provided by LEA such as school transport. Where schools work with other organisations to make provision for pupils or other organisations use the school premises, the governing body should ensure those organisations have complaints procedures which pupils can use. The member of staff receiving the complaint may need to help the pupil to access these procedures.

3.20 If the complaint is about services unrelated to the school, ie school transport, the member of staff may wish to assist the pupil in identifying how to pursue the matter and support the pupil in doing this. In cases where it is unclear where responsibility lies, the pupil may need help to seek advice from an organisation such as the Children's Commissioner or the Children's Legal Advice Centre.

3.21 If the complaint involves alleged child protection matters then the member of staff who co-ordinates child protection matters should refer the matter to the social services authority as a matter of urgency to be dealt with under locally agreed child protection procedures.

Complaint Relating to Pupil Behaviour Outside School

3.22 If a complaint is made about the behaviour of pupils on school buses or in the streets out of school hours, the matter should be referred to the school to deal with under their agreed pupil behaviour or bullying policy rather than the complaints procedure.

Governing Body Complaints Procedures

3.23 The governing body complaints procedure will need to be used if an issue is not resolved to the satisfaction of the pupil under other procedures or by the school council and it is a matter for which the school has responsibility.

SECTION 4: USE OF THE GOVERNING BODY COMPLAINTS PROCEDURE BY PUPILS

Introduction

4.1 Pupils need to be informed that if their complaint cannot be resolved informally, ie by the member of staff approached, their complaint will need to progress to the more formal stages of consideration by the headteacher and possibly the governing body complaints committee. If the complaint is about the headteacher the matter will be referred straight to the chair of governors. The pupil's agreement will be needed to continue the process to the more formal stages of consideration by the governing body.

4.2 Currently adults often make a complaint on behalf of a pupil, and a parent or other adult with an interest may wish to use the complaints process themselves. However, this may have the effect (whether or not intended) of disadvantaging the pupil. An alternative approach in such cases is to seek the consent of the pupil:

- to view the issue as one complaint, raised by the pupil; and
- to encourage the parent or other adult to act as an advocate for the pupil, taking care to ensure that the adult voice does not take over.

4.3 The stages for governing body consideration of complaints should be explained to the pupil ie consideration by the headteacher and the governing body in accordance with the stages recommended in paragraphs 65-72 of NAW Circular 03/2004 'School Governing Body Complaints Procedures'. The explanation should make clear that progress to the formal stages is likely to involve being questioned by the chair of governors or a committee of governors. The pupil should be reassured that they may have someone with them to help them present their complaint and when they are being questioned about it.

4.4 The governing body will need to consider:

- support for pupils using stages 2 and 3 of the complaints procedure (consideration by the headteacher and the governing body) for example through advocacy arrangements
- arrangements for collecting evidence from pupils
- specific arrangements for pupils appearing before a governing body complaints committee.

Advocates

4.5 An advocate helps to ensure that a pupil understands the complaints process, and should aim to work towards a speedy and satisfactory resolution of the complaint. The pupil is in control of the advocacy process and determines how the process is used. An advocate's role is different from that of a friend. A friend is there to accompany or support the pupil. An advocate provides independent and confidential advice and represents the pupil. This should be explained to the pupil so that he/she is able to make a choice as to what sort of support is available.

4.6 The core principles of advocacy are:

- advocates should work for children and young people
- advocates should help children and young people to raise issues and concerns about things that they are unhappy with
- advocates should value and respect children and young people as individuals.

4.7 Suitable advocates might be:

- a member or representative of a voluntary organisation or agency such as NSPCC, SNAP, NIACE, Trosgynol
- a friend or member of the pupil's family
- another professional already involved with the pupil, such as a youth worker or social worker
- a member of staff, so long as this does not involve a conflict of interests. If during consideration or investigation of a complaint it becomes apparent that the staff member advocate may have a conflict of interest, the pupil must be told and helped to find another advocate
- an independent, legal advocate such as a solicitor or other professional expert in the field.

4.8 In helping the pupil to decide who might appropriately act as their advocate those involved need to bear in mind that the process should not become legalistic or confrontational. Individuals with a background in representational or mediation work would be appropriate choices.

4.9 Advisory arrangements might be covered in the school's arrangements for publicising complaints procedures (see paragraphs 2.22 - 2.23).

Collating Evidence from Pupils

4.10 If a complaint from a pupil progresses to the stage where the headteacher (or chair of governors if the complaint is about the headteacher) and possibly the governing body complaints committee has to consider it, the headteacher or chair of governors will need to:

- clarify the complaint
- identify what the pupil is looking for in terms of solution or outcome
- explain the investigation procedure.

4.11 All information about the complaint should be noted carefully, including details such as timing, setting, who was present and what was said, in the pupil's own words. Care should be taken not to make assumptions about what the pupil is saying or place interpretations on the information which are not those of the pupil.

4.12 The written record of the complaint should be signed and dated by the headteacher or chair of governors as soon as practicable. The pupil should also read, agree and sign the report. If, given the age and understanding of the pupil, that is not possible, the headteacher or chair of governors will need to read back the record to ensure that there is no misunderstanding about what has been recorded. A copy of the report should be given to the pupil. Schools should make arrangements to ensure that children with disabilities can access the report and understand for example by means of 'read back' through Braille or sign language etc.

4.13 The headteacher or chair of governors if the complaint is about the headteacher need to plan the way the evidence about the complaint will be collated and in particular:

- who will be involved
- what written information relating to the complaint needs to be read
- options for recording the complaint eg video, tape etc.

4.14 The headteacher, chair of governors or the complaints committee needs to proceed to resolve the complaint as set out in paragraphs 65 - 92 and 94-96 of NAW Circular 03/2004. The governing body complaints committee needs to convey its decision to the pupil in writing in language the pupil understands and record its action as it would for any other complainant. It is good practice for the decision to be conveyed to the pupil orally so that all pupils, including those with disabilities or difficulties in reading, can understand the decision and any pupil can ask questions and seek clarification. A record of the complaint should be kept as set out in paragraphs 52 and 53, 70 and 91 of NAW Circular 03/2004.

Conduct of the Governing Body Complaints Committee

4.15 General guidelines are set out in paragraphs 73 - 92 of NAW Circular 03/2004 on the role of the chair in governing body complaints' hearings and the proceedings at the hearing. However, when listening to complaints involving pupils the governing body complaints committee should also ensure that:

- pupils are listened to and respected
- the environment for the hearing is comfortable, informal and non threatening
- the pupil knows the names and roles of those present
- the language used is suited to the age and understanding of the pupil
- the purpose of the hearing is carefully explained
- the pupil is not interrupted when recalling events
- questions are tactful and open - leading questions must be avoided
- the pupil has time to talk - be patient and try not to rush him/her
- body language and facial expressions of committee members do not betray responses to what is being said
- pupils are not aggressively questioned
- all information received and conclusions reached are treated confidentially unless the hearing reveals alleged child protection or other criminal matters which need to be reported to the police or social services.

Overcoming Barriers to Communication with Pupils

4.16 There are potential barriers to obtaining the views of pupils which governing body committees need to be aware of when questioning pupils. Pupils may:

- lack confidence speaking to a group of people they do not know
- have limited ability to express their views
- not be used to being listened to and may not expect to be taken seriously
- think that adults from a different social background to their own may not understand their needs or point of view.

SECTION 5: OTHER INVOLVEMENT OF PUPILS IN COMPLAINTS PROCEDURES

Involvement of Pupils as Witnesses

5.1 Pupils may be involved as witnesses in respect of a complaint made by an adult or another pupil. If pupils are involved as witnesses they should be listened to and their evidence recorded as described in Sections 3 and 4 of this guidance.

5.2 If pupils are called to give evidence to a governing body complaints committee the principles set out in paragraph 4.16 above and the procedures set out in NAW Circular 03/2004 'School Governing Body Complaints' Procedures' should be followed.

Pupils as the Subject of a Complaint

5.3 Pupils may be the subject of a complaint from an adult or another pupil.

The person receiving the complaint should consider whether it needs to be dealt with under another procedure such as the school's pupil discipline procedures or whether an offence may have been committed and the matter needs to be referred to the police and/or social services. If the complaint falls to be dealt with under the governing body's complaints procedure, the principles in paragraph 4.16 above (as regards questioning a pupil) and the procedures for resolution of complaints contained in NAW Circular 03/2004 should be followed.

Pupil Involvement in Resolution of Complaints

5.4 Pupils may be involved in the consideration of complaints through:

- the work of the school council
- supporting a fellow pupil through the process where the pupil requests such support.

5.5 Schools may wish to consider ways of developing a culture of peer support or mentoring, or introducing initiatives such as buddying schemes which can be used to help handle pupil complaints.

SECTION 6: OTHER ORGANISATIONS

Children's Commissioner for Wales

6.1 Annex A of NAW Circular 03/2004 identifies other organisations who may become involved in dealing with complaints about schools. One of these is the Children's Commissioner for Wales.

6.2 The Children's Commissioner for Wales has a wide-ranging statutory remit covering all children in Wales. It embraces the actions of the Welsh Assembly Government, local authorities and schools.

6.3 The Commissioner may:

- provide advice, assistance, information and support to children in making a complaint or representation
- review and monitor arrangements made for dealing with complaints, whistleblowing and advocacy, or consider and comment upon the absence of such arrangements
- investigate individual cases submitted to him.

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

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

Helplines and Support Organisations

6.6 As a matter of good practice schools should make available to pupils information about organisations who may be able to help them including local social services departments and:

- **Childline**
who can be contacted on Tel. No. 0800 1111,
- **The NSPCC Child Protection Helpline**
Tel. No. 0808 800 5000,
- **The Children's Commissioner for Wales**
Tel. No. 0179 765610, and
- **Children's Legal Centre**
Tel 01206 872466

This could be done using posters, information booklets or library resources; or in pastoral sessions or PSE lessons.

PUPIL COMPLAINTS LEAFLET

As a pupil you can make a complaint about any matter concerning your school. By law your school must have a procedure for dealing with complaints from many people including parents and pupils.

Where to find the Complaints Procedure

If you want to make a complaint ask a member of staff for a copy of your school's complaints procedure. It will explain how you go about making your complaint. You can also ask the person named in the procedure as a contact point to find someone to help you make your complaint and guide you through the process.

Some things you could complain about are:

- an event – such as a school trip
- anything about your school life – such as homework, school uniform
- school services – such as school meals or the school bus service
- the behaviour of an individual(s) – for example another pupil or member of staff
- something that affects you as a pupil - such as bullying
- something that has happened outside school but which is connected to the school – such as the behaviour of pupils on a school bus or in the street.

These are only some examples. There may be other things you want to complain about.

Privacy

All complaints will be kept private. This means that normally it will not be discussed with anyone without your consent. However there are some circumstances where a complaint has to be shared with other people, especially if it means you or another child is in danger of being hurt. If this is the case this will be explained to you.

Making a complaint

When you make a complaint

- everything you say will be listened to,
- you will be asked questions to make things clear,

- you will be dealt with fairly,
- your parents/guardian/carers will not be told you have made a complaint without your agreement,
- your complaint will follow the procedure your school has in place with your agreement,
- you will be allowed to have someone with you to help if you wish. This could be a parent, friend, relative or someone else,
- you will be told how your complaint is progressing,
- you will be told the outcome and given a letter confirming this.

Things for you to consider when making a complaint

- Is your complaint about something which affects the whole school or a group of pupils? Could you ask the School Council to consider it?
- Could you solve the problem in any other way by talking to your class teacher, form tutor or head of year, or someone else in school.
- If you decide to ask the school council or an individual member of staff to take up the matter but you are not satisfied with the results you can still use the school's complaints procedure.

Other involvement of pupils

You could be:

- A pupil who is being complained about, or
- a pupil who has seen something happening that is being complained about.

In these situations:

- everything you say will be listened to,
- you will be asked questions to make things clear,
- you will be dealt with fairly,
- you will be allowed to have someone with you to help if you wish – a parent, friend, relative or someone else.