

# MANAGING COMPLAINTS AGAINST MEMBERS POLICY

## Introduction

Management Committees are corporate boards and, as such no individual Member has any special powers, other than the Chair (and Vice Chair in the absence of the Chair) who may act in limited circumstances on behalf of the Management Committee when a delay would be detrimental to a pupil, parent, employee or the Pupil Referral Unit.<sup>1</sup> The power that lies with the Management Committee does so corporately and decisions are reached by majority vote of those present, following discussion.

Members:

- are required to promote high standards within the Pupil Referral Unit;
- should be aware of and accept the 'Nolan' 7 principles of public life; and
- should adopt and sign the Code of Conduct.

Occasionally, concerns may be raised about the behaviour, conduct or actions of an individual Member/s. This guidance is designed to provide a framework for dealing with such situations and to ensure that there is transparency and individuals are treated fairly.

There must be separate and specific procedures for dealing with general complaints about the Pupil Referral Unit or conduct/decisions of the Management Committee<sup>2</sup> and grievance procedures for staff.

## Categories of complaints and who should deal with them

Complaints against Members can be:

- from other Members on the Management Committee;
- from members of the public, which includes parents;
- from members of staff, including the Headteacher.

Irrespective of the category of the complaint, the responsibility for dealing with the complaint is that of the Management Committee and would normally fall to the Chair to manage.

Where the complaint is made against the Chair:

- it should be passed to the Clerk to the Management Committee who will make arrangements for the Vice Chair or with the agreement of the Management Committee, the Chair of another Management Committee or other independent person to investigate.

In determining an appropriate person to deal with the complaint, the Management Committee will need to consider the extent to which an internal investigation by one Member about another generates a conflict of interest or hinders objectivity and openness.

No member of staff, including the Headteacher, should be involved in the investigation of a complaint by a Member other than as a witness.

The fact that a complaint has been received, the date of the complaint, and the name of the person complained about, should be recorded by the Clerk, but neither the complaint nor any other details should be shared with any other Members.

The LA should be notified by the Clerk where a formal procedure is undertaken in respect of one of their representative Members or when the complainant is an employee. Their advice is not binding on the Management Committee, but they may offer an independent view and assistance with an appropriate resolution.

## Procedure

General principles:

- Resolution should be sought informally wherever possible.
- Complaints should be resolved as quickly as possible.
- The process of resolving complaints should not interfere with or undermine the work of the Management Committee.

### 1. Informal resolution

Wherever possible the complainant should seek to resolve the matter directly with the person they are complaining about through dialogue. The complainant may seek the assistance of a third party to facilitate that conversation should they so wish. Further advice regarding suitable third parties can be sought from the LA Governance Services provider.

Where this is not appropriate or does not resolve the matter, the complaint must be submitted in writing (including email) to the Chair who will be the “investigator”.

- In the case of complaint against the Chair, this should be sent to the Vice Chair. If the complaint is against both the Chair and Vice Chair, then it can be sent to any committee Chair
- In the case of a complaint by a member of staff, other than the headteacher, the complaint should be sent via, or copied to, the headteacher for information, although they will have no role in dealing with the complaint.

The investigator should arrange to meet with the complainant to determine the exact nature of the complaint and what resolution is sought. The complainant should be asked to provide evidence, including where applicable the names of any witnesses.

The investigator should then arrange to meet with the Member to discuss the complaint and seek to resolve the matter.

If appropriate, a further meeting with all parties may be held to resolve the matter. A mediator, a listed National Leader of Governance, may be appointed if this is agreed by all parties as a means of resolution.

Meetings should be approached with an open mind; listening carefully and fully exploring all of the issues and evidence. Reference should be made to the code of conduct as appropriate.

Where the matter can be resolved through this informal process, the resolution should be confirmed in writing to both parties.

## 2.The formal procedure

Where the matter cannot be resolved informally, the investigator, or if more appropriate a new independent investigator from another Management Committee, should conduct a full investigation. This should include:

- Reviewing any written evidence
- Interviewing any witnesses
- Interviewing the complainant (where further information/clarification is required following any informal discussion)
- Interviewing the Member. Recognising the role is voluntary, the Member should be afforded the opportunity to be accompanied at any interview at this stage by a Member colleague independent of the investigation. They can be a Member from another Pupil Referral Unit. There is no right to legal representation.

All interviews at this stage should be minuted and all parties must maintain confidentiality. Meetings should be held in a neutral venue where appropriate.

The investigator should compile a report setting out the process followed, the evidence, and conclusion. The conclusion may be one or more of (but not restricted to):

- The complaint is unfounded
- The complaint is upheld and a formal apology is sent to the complainant
- The individual Member (and/or Management Committee) should receive specific training/mentoring
- The complaint is upheld and detrimental to the reputation of the Management Committee, and the individual concerned is invited to resign
- Suspension\*
- Removal from the Management Committee\*

\*these options should be considered only in the most serious cases of misconduct. See Appendix A for procedures.

Where the investigator is an independent person, outside of the Management Committee, a panel of the Management Committee, will have to receive, accept, or reject the conclusions and action the recommendation.

The conclusion should be confirmed and in writing to the complainant and the Member. If the complainant is a member of staff, their employer, should also be advised of outcome. The LA will monitor outcomes.

All records relating to the complaint should be retained, as for other Management Committee reports for 6 years. If the complaint was from a member of staff, a copy of papers should also be retained in a confidential section of their personal file in accordance with normal file retention for employees (duration of employment +6 years).

The outcome of the complaint should be recorded as a confidential item in the Management Committee minutes: "RESOLVED: The complaint by xxx against xxx was investigated by xxx, the outcome being xxx"

## 3. Disagreement with the outcome

Where either party considers that the complaint has not been handled appropriately or is dissatisfied with the outcome, they may provide details of their concerns in writing.

The Management Committee should appoint a Member who has no previous involvement, or an independent person to review the matter and provide a conclusion. This will normally be a paper review considering the original investigators report, but may involve speaking to relevant parties where this is considered necessary.

The outcome of the review will be final.

## Appendix A: Suspension and removal of Members

Where a complaint is upheld and was so serious that it is concluded that the person should no longer serve as a Member, the expectation would be that the person would resign. Should they not do so, and their continuation would affect the reputation or work of the board, suspension/removal will need to be considered.

## Suspension

Maintained Pupil Referral Units: Can suspend a Member for a fixed period of up to 6 months under s17 of The Schools Governance (Roles, Procedures and Allowances) Regulations 2013, in the following circumstances:

- when a Member who is paid to work at the Pupil Referral Unit, is the subject of disciplinary proceedings in relation to his or her employment;
- that the Member is the subject of proceedings in any court or tribunal, the outcome of which may be that the Member is disqualified from continuing to hold office as Member;
- that the Member has acted in a way that is inconsistent with the ethos or with the religious character of the Pupil Referral Unit and has brought or is likely to bring the Pupil Referral Unit or the Management Committee or the office of Member into disrepute; or
- that the Member is in breach of the duty of confidentiality to the Pupil Referral Unit or to any member of staff or pupil at the Pupil Referral Unit.

Procedure

Any motion to suspend must be specified as an agenda item for the relevant meeting.

Before a vote is taken on a resolution to suspend a Member:

- the Member proposing the resolution must, at the meeting, state the reasons for doing so

- the Member who is the subject of the resolution must be given the opportunity to make a statement in response before withdrawing from the meeting.

The Member must be notified in writing of the outcome of the vote.

## Removal

Maintained Pupil Referral Units: The appointing body can remove appointed and elected Members, including the Chair and vice-Chair under The Schools Governance (Constitution and Federation) (England) (Amendment) Regulations 2017

The Management Committee can remove:

- Community Members
- Parent Members (appointed and elected)
- Staff Members
- Any sponsor Members

The LA may remove Members they have appointed.

### Procedure

Any motion to remove a Member must be specified as an agenda item for the relevant meetings.

Before a vote is taken on a resolution to remove a Member:

- the Member proposing the resolution must, at the meeting, state the reasons for doing so
- the Member who is the subject of the resolution must be given the opportunity to make a statement in response before withdrawing from the meeting

A resolution to remove a Member must not be enacted until it has been confirmed at a second meeting of the Management Committee held not less than 14 days after the first meeting.

The Member must be notified in writing of the decision.

*1 Maintained Pupil Referral Units: The Schools Governance (Roles, Procedures and Allowances) (England) Regulations 2013 Regulation 8.*

*2 Maintained Pupil Referral Units: Pupil Referral Unit Complaints Procedures.*

## Review

This policy will be reviewed by the Management Committee every three years. The next review date is December 2024.