

# Bay Education Trust

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## Complaints Policy

**It is the responsibility of all Bay Education Trust employees and volunteers to familiarise themselves with the contents of all Trust policies and any amendments hereafter.**

### Policy History

1. Approved by BET board following consultation with the Trades Unions, December 2015

<b>VERSION</b>	<b>1</b>		
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# Bay Education Trust

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## Contents

1. Introduction	3
2. Time limit for making complaints	3
3. Vexatious and repeated complaints	4
4. Anonymous complaints	4
5. Investigating complaints	5
6. Resolving complaints	5
7. Complaints about the headteacher	5
8. Complaints about the chair of the local advisory group	6
9. Complaints about other local advisory group members	6
10. Complaints about the chief executive officer	6
11. INFORMAL STAGE	6
Stage 1: Concerns or complaints to members of the academy	6
12. FORMAL STAGES	
Stage 2: Complaints passed to the headteacher	6
Stage 3: Complaints passed to the chair of the local advisory group	7
Stage 4: Complaints passed to the chief executive officer of the Trust	8
13. COMPLAINTS PANEL HEARING	9
Stage 5: Complaint heard before a complaint panel	9
14. Referrals to the Education Funding Agency (EFA)	11
15. Reporting to the Trust	11
16. Confidentiality & record keeping	11
17. Publication	11
ANNEX A: Guidance on interviewing pupils	12

# Bay Education Trust

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## 1. Introduction

Every academy values its relationship with parents, carers and the local community. Academy staff are happy to receive suggestions and comments on what goes on within the academy, and this can help to identify areas of success and areas where improvements can be made.

Individuals may also want to raise concerns and it is important that anyone who does so is treated fairly and their concern is taken seriously. It is in everybody's interests that concerns and complaints are resolved at the earliest possible stage. Every effort should be made to resolve the matter informally. Many enquiries and concerns can be dealt with by members of staff or the headteacher or principal, referred to in this document as "headteacher", promptly and amicably without needing to be dealt with on a formal basis.

It is important that the complaints policy is used in the correct context and not confused with the grievance policy.

The complaints policy can be used by anyone outside of Bay Education Trust, e.g. a parent complaining about lack of homework.

The grievance policy is generally a complaint against another person or organisation; usually it would be a Trust employee or volunteer making a complaint or raising a grievance against another Trust employee or volunteer.

A person wanting to raise a concern or a complaint (referred to as "the complainant") should follow the procedure outlined in this complaints policy. The procedure provides a five stage process to ensure that all complaints are dealt with consistently and fairly. It is clearly stated at each stage who is responsible for dealing with the complaint and the timescales which will apply. The aim is to try and resolve matters fairly and promptly to the satisfaction of both parties. The procedure must be followed, but common sense and proactive dialogue should be used to try and resolve the matter.

Academies are governed by the Education (Independent School Standards) (England) Regulations 2010 (as amended) ("the Regulations"). How complaints are dealt with by an academy is governed by Schedule 1, Part 7 of the regulations.

The proprietor of the academy is Bay Education Trust (referred to as "the Trust"), a multi academy trust company, and the board of directors of the Trust has overall responsibility for the management and running of the academy. The local advisory group of the academy has been authorised by the board of directors of the Trust to be responsible for ensuring good practice in the day to day management and running of the academy.

The standard of proof to be applied by a person investigating a complaint is the civil standard, namely "on a balance of probabilities" (or more likely than not). The criminal standard of "beyond reasonable doubt" does not apply to any stage of the procedure outlined in this complaints policy.

## 2. Time limit for making complaints

It is often difficult or impossible to properly investigate complaints which involve events that happened more than a year ago. For this reason, the academy will not normally consider a complaint raised more than a year after the incident the complaint relates to. The academy will, however, consider a late complaint if it can be demonstrated that:

# Bay Education Trust

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- ▶ There is a genuine reason for the complaint not being made within one year
- ▶ There is sufficient access to information or the individuals involved to enable a proper investigation
- ▶ There is a real benefit to the complainant in proceeding.

When the academy decides that a late complaint will not be investigated, the academy will write to the complainant within 5 normal school days to inform them of the decision. If the complainant is unhappy with the decision, they may write to the PA to the CEO and board to ask for the decision to be reviewed. A director will be provided with the letter of complaint, the letter rejecting the complaint and any other related documentation, and will review the decision made.

The director will write to the complainant notifying them of the outcome of the review within 10 normal school days of receiving the letter seeking the review. If the director quashes the decision, the academy will investigate the complaint under the relevant stage of the procedure in this complaints policy. If the director upholds the decision, the complainant may refer their complaint to the EFA at the address stated towards the end of this complaints policy.

### **3. Vexatious and repeated complaints**

There may be occasions when, despite exhausting the procedure in this complaints policy, the complainant persists in making the same complaint to the academy. There may also be occasions when a complainant makes unreasonable persistent complaints or unreasonable complaints about matters which do not affect them. In addition, there may be occasions when a complaint is made about a matter which is clearly so trivial that it would be a waste of the academy's resources to deal with it under the formal stage of the procedure.

If the academy decides that a complaint is vexatious and/or repeated and will not be investigated, the academy will write to the complainant within 5 normal school days to inform them of the decision. If the complainant is unhappy with the decision, they may write to the PA to the CEO and board to ask for the decision to be reviewed. A director will be provided with the letter of complaint, the letter rejecting the complaint and any other related documentation, and will review the decision made.

The director will write to the complainant notifying them of the outcome of the review within 10 normal school days of receiving the letter seeking the review. If the director quashes the decision, the academy will investigate the complaint under the relevant stage of the procedure in this complaints policy. If the director upholds the decision, the complainant may refer their complaint to the Education Funding Agency, EFA, at the address stated towards the end of this complaints policy.

### **4. Anonymous complaints**

When the person making a complaint cannot be identified, the complaint will not be investigated under the procedure in this complaints policy. The complaint will be referred to the headteacher who will decide what, if any, action to take.

In these cases, the academy will summarise the complaint in writing and send it to the PA to the Trust CEO at the Trust head office at the earliest opportunity.

## 5. Investigating complaints

The person conducting an investigation into a complaint should:

- ▶ Read this complaints policy to familiarise themselves with the procedure for investigating complaints
- ▶ Identify the time limits that apply to the stage of the complaint they are dealing with and ensure that they comply with them
- ▶ Establish what the complainant says happened
- ▶ Establish who was involved in the events that led to the complaint
- ▶ Establish the exact nature of the complaint
- ▶ Establish what the complainant feels would put things right
- ▶ Interview those involved in the matter, including those complained about
- ▶ Ensure that students are accompanied by another member of staff (or a parent, if appropriate) when they are interviewed and the guidance on interviewing students in Annex A is followed
- ▶ Keep a written record of any interview and ask the interviewee (and the person accompanying them, if applicable) to sign and date it
- ▶ Decide what facts have been established, on a balance of probabilities, and make a written record
- ▶ Decide whether the complaint is rejected, partially upheld or wholly upheld, and make a written record, including reasons
- ▶ Decide what actions, if any, should be taken to resolve the complaint or prevent a recurrence of the events that led to the complaint
- ▶ Above all, keep an open mind throughout the investigation, keeping in mind that the complainant may be right and academy colleagues may be wrong

## 6. Resolving complaints

At each stage of the procedure in this complaints policy, ways in which a complaint can be resolved should be kept under consideration. It is useful for complainants to be encouraged to state what actions they feel might resolve the problem. This will support the identification of areas of agreement between the parties. It is important to clarify any misunderstandings that might have occurred, as this can create a positive atmosphere in which to discuss any outstanding issues.

It is unlikely that all complaints will be upheld. Some complaints may only be partially upheld, while other complaints may be wholly upheld. If a complaint is partially or wholly upheld, it may be appropriate to offer one or more of the following:

- ▶ An apology
- ▶ An explanation
- ▶ An admission that the situation could have been handled differently or better
- ▶ An assurance that the event complained of will not recur, with an explanation of the steps that have been taken to prevent a recurrence
- ▶ An undertaking to ask the Trust or the local advisory group, as appropriate, to review academy policies or procedures in light of the complaint.

None of the above will be regarded as an admission of negligence or an acceptance of liability by or on behalf of the academy or the Trust.

## 7. Complaints about the headteacher

A complaint about the headteacher, should be made to the CEO of the Trust or if they are the subject of the complaint (by virtue of holding both posts) the chair of the board of directors, who will investigate the complaint or ask a director to do so under Stage 2 of the procedure in this Complaints Policy. If the

# Bay Education Trust

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complainant is subsequently unhappy with the decision under Stage 2, they should write to the chair of the board of directors seeking a review under Stage 4 of this procedure, and Stage 3 will not apply.

## **8. Complaints about the Chair of the Local Advisory Group**

If the complaint is about the chair of the local advisory group, it should be made to the headteacher at the academy, who will investigate the complaint under Stage 2 of this procedure. If the complainant is unhappy with the headteacher's decision under Stage 2, they should write to the chief executive officer of the Trust seeking a review under Stage 4 of this procedure, and Stage 3 will not apply.

## **9. Complaints about other Local Advisory Group members**

If the complaint is about a local advisory group member other than the chair of the local advisory group, the complaint will follow the formal procedure from Stage 2 in the usual way, and it should be made to the headteacher at the academy in the first instance.

## **10. Complaints about the Chief Executive Officer**

If the complaint is about the chief executive officer, it should be made to the vice chair of the Trust who will investigate under Stage 2. If the complainant is unhappy with the vice chair's decision under Stage 2, they should write to the chair of the Trust seeking a review under Stage 4.

## **11. Informal Stage**

### **Stage 1: Concerns or complaints to members of staff of the academy**

When possible, the academy will try to deal with the concern or complaint as near to its source as possible. This means that the complainant should raise the concern or complaint with the most relevant person, likely to be the form tutor, subject tutor, head of year or head of department, depending on the nature of the complaint. The complainant can raise the concern or complaint in person, on the telephone or in writing. The academy will investigate the concern or complaint and reach a decision. Concerns or complaints dealt with informally under Stage 1 will not normally be formally acknowledged unless they were submitted in writing, in which case they will be acknowledged in writing within 3 normal school days.

After completion of an investigation, the complainant will be informed of the decision in person, over the telephone or in writing, as appropriate, normally within 10 normal school days. In exceptional circumstances, it may take longer to deal with the concern or complaint. If this is the case, the complainant will be informed, usually by telephone or, if appropriate, in writing, within 10 normal school days, and will be told the date by which the decision will be notified.

## **12. Formal Stages**

### **Stage 2: Complaints passed to the headteacher**

If the complainant is unhappy with the way the complaint was dealt with at Stage 1, the complainant should write to the headteacher at the academy and explain the nature of the complaint. The complainant's letter will be acknowledged within 3 normal school days from the date that it was received.

# Bay Education Trust

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The headteacher will investigate the complaint, which may involve speaking to members of staff and students, as appropriate. Students will usually be accompanied by another member of staff for support when they are spoken to and the guidance on interviewing students in Annex A will be followed. The headteacher will keep a written record of all meetings with members of staff and students.

During the course of the investigation, the complainant may be invited to attend for a meeting if the headteacher thinks that this is necessary to obtain further information. If the complainant is invited to a meeting, the complainant may bring a friend or relative with them for support. The friend or relative will not be invited to give their view of the complaint, unless the headteacher feels that there are exceptional reasons for doing so.

The headteacher will write to the complainant to inform them of the outcome of the investigation. Unless there are exceptional circumstances, the letter will be sent within 12 normal school days of the date that the letter of complaint was received by the headteacher. Sometimes it may not be possible to comply with this time limit, in which case the headteacher will write to the complainant within this time limit informing you them it has not been possible to comply, and notifying them of the date when they will receive a letter confirming the outcome of the investigation.

In some cases, the headteacher may feel that it is appropriate to delegate the investigation of the complaint to another member of the senior leadership team. If this is the case, the complainant will be notified when their letter to the headteacher is acknowledged. The headteacher will continue to monitor the progress of the complaint and it will be the headteacher who will write to the complainant confirming the outcome of the investigation.

### **Stage 3: Complaints passed to the chair of the local advisory group**

If the complainant is unhappy with the outcome of their complaint at Stage 2, the complainant should write to the chair of the local advisory group at the academy to ask for the decision made at Stage 2 to be reviewed. The complainant's letter will be acknowledged within 3 normal school days of the date that it was received.

The chair of the local advisory group will be provided with the original letter of complaint, all records made by the headteacher during Stage 2, the letter sent to the complainant by the headteacher confirming the outcome, and the complainant's letter seeking a review under Stage 3.

If necessary, and usually only in exceptional circumstances, the chair of the local advisory group will carry out further investigations to ensure that all aspects of the complaint have been thoroughly investigated. This may involve speaking to the complainant (over the telephone or in person) as well as to members of staff or students. Students will usually be accompanied by another member of staff for support if they are spoken to and the guidance on interviewing students in Annex will be followed. The chair of the local advisory group will keep a written record of all conversations with the complainant, members of staff and students.

The chair of the local advisory group will consider the original complaint, and will also consider how the complaint was dealt with under Stages 1 and 2.

The chair of the local advisory group will write to the complainant to confirm the outcome of the review within 15 normal school days of the date that the letter seeking a review under Stage 3 was received. Sometimes it may not be possible to comply with this time limit, in which case the chair of the local advisory group will write to the complainant within this time limit informing them why it has not been possible to comply, and notifying them of the date when they will receive a letter confirming the

# Bay Education Trust

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outcome of the review.

In exceptional circumstances, the chair of the local advisory group may feel that it is appropriate to delegate the review of the complaint to another member of the local advisory group who is not a member of staff. If this is the case, the complainant will be notified when the letter to the chair of the local advisory group is acknowledged. In such cases, the chair of the local advisory group will continue to monitor the progress of the review of the complaint and it will be the chair of the local advisory group who will write to the complainant confirming the outcome of the review.

## **Stage 4: Complaints passed to the chief executive officer of the Trust**

If the complainant is unhappy with the outcome of the review of their complaint at Stage 3, the complainant should write to the academy marking their letter "For the personal attention of the chief executive officer of the Trust to ask for the decision made at Stage 3 to be reviewed. The letter will be normally be acknowledged within 5 normal school days of the date that it was received, however as the chief executive officer is not regularly in attendance at the academy, it may sometimes take a day or two longer for the request to be acknowledged.

The chief executive officer will be provided with the original letter of complaint, all records made by the headteacher during Stage 2, the letter sent to the complainant by the headteacher confirming the outcome, all records made by the chair of the local advisory group during Stage 3, the letter sent to the complainant by the chair of the local advisory group confirming the outcome, and the letter seeking a review under Stage 4.

If necessary, and only in exceptional circumstances, the chief executive officer will carry out further investigations to ensure that all aspects of the complaint have been thoroughly investigated. This may involve speaking to the complainant (over the telephone or in person) as well as to members of staff or students and the guidance on interviewing students in Annex A will be followed. Students will usually be accompanied by another member of staff for support if they are spoken to. The chief executive officer will keep a written record of all conversations with the complainant, members of staff and students.

The chief executive officer will consider the original complaint, and will also consider how the complaint was dealt with under Stages 1, 2 and 3.

The chief executive officer will write to the complainant to confirm the outcome of the review within 20 normal school days of the date that the letter seeking a review under Stage 4 was received. Sometimes it may not be possible to comply with this time limit, in which case the chief executive officer will write to the complainant within this time limit informing them why it has not been possible to comply, and notifying them of the date when they will receive a letter confirming the outcome of the review.

The chief executive officer may feel that it is appropriate to delegate the review of the complaint to another director of the Trust who is not a member of staff or a member of the local advisory group. If this is the case, the complainant will be notified when the letter to the chief executive officer is acknowledged. In such cases, it will be the director who reviewed the complaint under Stage 4 who will write to the complainant confirming the outcome of the review, rather than the chief executive officer.

## 13. Complaint panel hearing

### Stage 5 Complaint heard before a complaint panel

If the complainant is unhappy with the outcome of the review of the complaint at Stage 4, the complainant should write to the PA to the CEO and board asking for the complaint to be considered at a complaint panel hearing. The complainant's letter will be acknowledged within 3 normal school days of the date that it was received.

The PA to the CEO will liaise with the Trust in arranging for a complaint panel to be appointed. The complaint panel will consist of three persons, none of whom will have been involved in the subject matter or circumstances surrounding the original complaint, or have been involved in dealing with the complaint under the previous stages, or have any detailed knowledge of the complaint. At least one of the complaint panel members must be independent of the Trust and may for example be a headteacher working in another Trust, an HR advisor or director of another Trust.

The chief executive officer will decide who is the most appropriate person to represent the academy at the complaint panel hearing. This may be the chief executive officer, another director of the Trust, the chair of the local advisory group, another local advisory group member or the headteacher. If the complainant has complained about the way in which the complaint was dealt with during the previous stages (rather than simply disagreeing with the decision reached), then that person will not be the academy's representative, and is likely to be a witness for the academy as outlined below. For the avoidance of doubt, the academy's representative will not be a member of the complaint panel.

The PA to the CEO and board will liaise with the complainant, the members of the complaint panel, and the academy's representative to convene a complaint panel meeting on a date and at a time which is convenient to all parties and within 20 normal school days of the date that the letter requesting a complaint panel hearing was received. This date and time will be confirmed in writing to the complainant and all other parties, once it has been agreed.

Members of staff or local advisory group members involved in the subject matter or circumstances surrounding the complaint will attend the complaint panel hearing as witnesses for the academy, unless their statements are unchallenged and their attendance is not required.

Persons dealing with the complaint in the earlier stages may be required to attend the complaint panel hearing as witnesses for the academy, if appropriate. If the complainant has complained about the way in which the complaint has been dealt with in the previous stages (rather than simply disagreeing with the decision reached), then it will be appropriate for the person who dealt with that stage to attend the complaint panel hearing as a witness for the academy.

The complainant is entitled to attend the complaint panel hearing to make representations to the complaint panel. The complainant is entitled to be accompanied by a friend or relative, who will attend for support only and will play no part in the hearing unless it appears to the complaint panel that it would be helpful to allow them to do so. Complaint panel hearings are not legal proceedings, and it is therefore not appropriate for the complainant or the academy to be legally represented at the hearing.

The complainant may bring witnesses with them to the complaint panel hearing, who will remain outside the room at all times except when they are giving their statement to the complaint panel. If the complainant does wish to bring witnesses with them, the complainant should ask the witnesses to write down their statements and send these to the PA to the CEO and board to arrive no later than 2 normal

# Bay Education Trust

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school days prior to the complaint panel hearing. Only witnesses whose statements are deemed relevant to the complaint will be heard by the complaint panel, at their discretion.

The complainant will be provided with a copy of all documentation relating to the complaint, including the records made during the investigation and the reviews of the complaint under Stages 1, 2, 3 and 4 at least 2 normal school days prior to the complaint panel hearing. Each member of the complaint panel and the academy's representative will also be provided with this documentation.

There will be a clerk at the complaint panel hearing, who will usually be the PA to the Trust board. The clerk to the complaint panel will keep an accurate record of the proceedings.

At the complaint panel hearing:

- ▶ The complainant will be invited to give details of the complaint
- ▶ The complainant will be asked questions by the academy's representative, if any
- ▶ The complainant will be asked questions by the complaint panel, if any
- ▶ The complainant's witness will be invited into the room to give a statement
- ▶ The complainant's witness will be asked questions by the academy's representative, if any
- ▶ The complainant's witness will be asked questions by the complaint panel, if any
- ▶ The complainant's witness will be asked to leave the room
- ▶ If the complainant has any other relevant witnesses, they will be invited to give a statement in the same way as outlined above
- ▶ The academy's representative will respond to the complaint, outline the way in which the complaint has been dealt with under the previous stages, and confirm the academy's stance
- ▶ The complainant may ask questions of the academy's representative, if any
- ▶ The complaint panel may ask questions of the academy's representative, if any
- ▶ The academy's witness will be invited into the room to give a statement
- ▶ The complainant may ask questions of the academy's witness, if any
- ▶ The complaint panel may ask questions of the academy's witness, if any
- ▶ The academy's witness will be asked to leave the room
- ▶ If the academy has any other relevant witnesses, they will be invited to give a statement in the same way as outlined above
- ▶ The complainant will be invited to summarise the complaint
- ▶ The academy's representative will be invited to summarise the academy's position
- ▶ The complainant and the academy's representative will be asked to leave to enable the complaint panel to retire to consider their decision.

The complaint panel will, in private, consider all of the documentation provided and everything that they have heard, and make:

- ▶ **Findings of fact.** The complaint panel will decide which facts are true and which are not, on a balance of probabilities (i.e. more likely than not). The complaint panel will disregard facts which they deem to be irrelevant to the complaint. The complaint panel will make a written record of their findings of fact, with reasons.
- ▶ **Recommendations**, if any. The complaint panel will consider if they have any recommendations to make. These may include suggesting changes to academy, local advisory group or Trust procedures, providing the complainant with a written apology or explanation, or taking further formal action. The complaint panel may not have any recommendations to make. The complaint panel will make a written record of their recommendations, or record that they had none to make.

# Bay Education Trust

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The PA to the Trust will write to the complainant, the academy's representative and any person complained about within **10 normal school days** of the complaint panel hearing with notification of the complaint panel's findings of fact and recommendations.

The PA to the Trust will ensure that a record of the complaint panel's findings of fact and recommendations is made available for inspection on the school's premises by the headteacher, the local advisory group and the board of directors.

## **14. Referrals to the Education Funding Agency (EFA)**

If the complainant feels that the academy's complaints policy does not comply with the regulations, or if the complainant believes that the academy has not followed the procedure contained within its complaints policy, the complainant can refer the complaint to the EFA at the following address:

Education Funding Agency  
Castle View House  
East Lane  
RUNCORN  
Cheshire  
WA7 2GJ

The complainant should be aware that the EFA will not investigate the complaint itself, unless it is clear that the decision made by the complaint panel was manifestly unreasonable. The EFA will review a copy of the academy's complaints policy to ensure that it complies with the regulations, and will review the procedure followed by the academy in dealing with the complaint to ensure that it complied with its published procedure.

## **15. Reporting to the Trust**

The academy HR department will keep a record of all formal concerns and complaints raised, whether they are dealt with informally under Stage 1, or are sufficiently serious to be dealt with immediately as formal complaints under Stage 2, and in relation to anonymous, late and vexatious/repeated complaints. These will be reported termly to the Trust board as part of the personnel report.

The academy will keep the PA to the Trust CEO informed of the progress of any complaint as it proceeds through the formal stages, if applicable.

## **16. Confidentiality and record keeping**

The academy will keep a record of all concerns and complaints, whether they were dealt with formally or informally. All correspondence, statements and records relating to individual complaints will be kept confidential by the academy, other than if the Secretary of State or body conducting an inspection requests access to them.

## **17. Publication**

This complaints policy will be reviewed annually by the Trust, will be published on the academy's website and will be made available to parents upon request.

## ANNEX A

### Guidance on interviewing pupils

There will be times when an investigating officer considers it appropriate to interview students. The following procedure should be followed:

1. Parents should be contacted to ask permission to interview their children. Parents should be encouraged to attend.
2. The union rep should be invited to attend the interview with pupils but has no active part to play and is only an observer.
3. Parents and pupils should be clear the process is confidential.
4. Parents and pupils should sign the written statement as a true record.
5. Pupils should not be interviewed together.
6. To avoid collusion, pupils should not sit with other pupils involved in the investigation.
7. Parents and their son/daughter should be seated separately from other parents and pupils involved in the investigation.
8. Pupils and parents should be escorted at all times by an employee of Bay Education Trust.

