

HANDLING PARENTAL COMPLAINTS

Parents from time to time are concerned about an aspect of their child's education/welfare at school. This may be due to a misunderstanding about the school's approach to the curriculum, or the way behavioural problems are handled. Schools welcome enquiries from parents. In most cases, teachers and principals reassure parents and carers by explaining the schools' policies and practices, and how they affect the child. Most complaints are resolved in a calm manner with the interests of the child being paramount.

Increasingly more parental complaints are being presented through a solicitor or anonymously to the Principal, Governors or employing authority. These allegations are sometimes afforded a formal status in which the rights of the teacher are sacrificed to avoid a potential legal case against the school. A Governors' sub-committee investigates the allegations under the Disciplinary Procedure. This guidance sets out, the right of the accused and the principles which should be followed for a just investigation to be carried out.

INVESTIGATING A COMPLAINT

A complaint about a teacher's professionalism can be harsh, when it comes by solicitor's letter to the Chair of Governors. If a decision is taken to investigate this complaint using the disciplinary procedure, the effect on the teacher is traumatic. Once the disciplinary procedure is initiated, there is a predetermination that the complaint warrants a form of disciplinary action. The teacher's right to a fair trial is compromised. A separate procedure for handling such complaints, based on conciliation, must be available in all schools.

Governors who use disciplinary investigations against teachers will be responsible for the management of the aftermath of such investigations and disciplinary sanctions. The disciplinary procedure is a blunt tool. Reliance on such destroys trust and relationships, which may never again be repaired. An allegation that is deemed serious enough to warrant a formal investigation should comply with the following:

- 1. The process should be open and transparent**
- 2. It should comply with the tenets of natural justice, i.e. the teacher:**
 - a. Is innocent until proven guilty
 - b. Has the right to know the details of the complaint and the identity of those making the allegations
 - c. Has the right to see all the evidence and testimony of witnesses that is brought to sustain any complaint and respond accordingly
 - d. Has the right to expect an open and transparent investigation of the complaint.
- 3. It should protect the teacher's employment rights.**
 - a. The law of contract requires an employer to be vicariously liable for all the actions of an employee whilst in their employment. This means that teachers must expect to be protected from malicious and unfounded complaints made against them whilst discharging their duties within the school.
- 4. It should comply with the Human Rights Act.**

The Human Rights Act enshrines the right to a fair trial and gives legal force to the principles of natural justice. It emphasises that in investigating a complaint an employer cannot be judge and jury. This means the same panel which investigates a complaint cannot act as a disciplining body at a subsequent stage.
- 5. The right to representation and support should be clearly stated.**

The teacher has the right to be accompanied by a trade union representative at all stages of the investigation.

INVESTIGATING A SERIOUS COMPLAINT

It is best to resolve concerns informally. It is important that any procedure states that:

- The school is required to report any Child Protection cases to the employing authority/social services.
- Parents and carers are required to acknowledge the seriousness of such cases and the implications for the accusers in making the allegations when unfounded claims are established.
- Special arrangements apply in concerns about staff where potential child protection issues may be involved.

- Cases involving staff, other than the principal, are investigated by the principal; concerns about the principal's conduct are investigated by the Chair of Governors or a designated governor;
- Parents are entitled to know that an investigation has taken place, but under law, the details (what action, if any, has been taken) may not be disclosed.

MANAGING ANONYMOUS COMPLAINTS

Some express their concerns anonymously. Where anonymity prevents the proper investigation of a complaint or infringes the human/employment rights of the accused, these complaints should not proceed. It should be made clear to anyone making a complaint against a teacher that they must produce evidence and/or witnesses to sustain the allegations made. If the individual is not prepared to do this, the complaint cannot be dealt with.

INTERVIEWING WITNESSES

ADULT

Adult witnesses should be interviewed about their role in the events contributing to the complaint. They should not be asked to give their personal view of the accused. They should be advised that a copy of their statement will be made available to the accused as part of any investigation and that they may be required to substantiate their statement before an investigatory panel and be cross-examined on it.

CHILDREN

When interviewing children as potential witnesses, parental consent must be sought prior to any interview. Parents should be offered the right to be present at the interview. Care should be taken to avoid asking leading questions. A copy of the responses should be independently witnessed and a copy forwarded to the parent / carer for their personal record. Where a panel wishes to interview a child witness, this should be carried out when the parent or carer is present to support the child. The parent should be advised that they should not coax, assist or force the child to answer the questions put. The responses should be those of the child only.

A GOOD COMPLAINTS PROCEDURE

The Citizen's Charter Complaints Task Force has published principles for an effective complaints system.

"Complaints systems should above all reflect the needs of those people who use public services. Complaints systems should be accessible, easy to understand, provide an effective response and, where appropriate, independent review. They can provide valuable information about weaknesses as perceived by users. Complaints can help organisations to take remedial action and improve standards of service."

It should:

- Promote conciliation rather than confrontation;
- Recognise the benefits of positively welcoming complaints;
- Be consistent with the legal rights of the person complaining;
- Be fair and impartial to all parties concerned;
- Be confidential and have a clearly defined scope;
- Be developed in consultation with parents and teacher union representatives;
- Be simple to understand and use;
- Be made up of three main stages: informal, formal, and appeals;
- Provide for an independent appeal mechanism;
- Encourage outside support, such as advice services for special needs issues;
- Set time limits for handling complaints;
- Analyse the source or nature of complaints.

WHAT ABOUT REDRESS?

The purpose of redress is to put right something that has gone wrong, but it is important that redress should be appropriate to individual circumstances. For example, acknowledging a problem and providing an apology can sometimes be enough to correct a situation. In other instances, appropriate redress might take the form of extra tuition, a change in school policy, or simply an explanation about why a matter is difficult to resolve.

A complaints procedure is divided into 3 stages:

Stage 1: aims to resolve the concern through informal contact;

Stage 2: the formal stage at which written complaints are considered by the principal or designated governor,

Stage 3: involves a complaints review panel of governors.