

Complaints procedure for Baines' Endowed Church of England Primary Academy

Autumn Term 2020

Baines' Endowed Complaints Procedure

Approved by the Governing Body (Draft for approval Autumn 2020)
Review Date: September 2021

Introduction

Baines' Endowed endeavours to provide the best education possible for all of its pupils in an open and transparent environment. We welcome any feedback that we receive from parents, pupils and third parties, and we accept that not all of this will be positive. Where concerns are raised the academy intends for these to be dealt with:

- Fairly
- Openly
- Promptly
- Without Prejudice

In order to do so, the Local Governing Committee of Baines' Endowed has approved the following procedure which explains what you should do if you have any concerns about the academy. All members of staff will be familiar with the procedure and will be able to assist you.

Raising concerns

The majority of concerns can be dealt with without resorting to this procedure. Where you have a concern about any aspect of the academy or your child's education or wellbeing, raise this with your child's class teacher via telephone, email or in person. He/she may be able to address your concerns straight away or arrange a meeting with you to discuss the issue.

All concerns will be dealt with confidentially, although the staff member may need to take notes if they feel that the matter may need to be taken further or it may arise again in the future. Any such notes will be kept in accordance with best practice towards data safety and security. However, such notes would be able to be used as evidence if further investigation was required, or if the concern became a formal complaint.

Which procedure do I need?

Sometimes, when concerns are more specific, there are alternative and more appropriate policies for dealing with them. The following list details specific topics of complaints, and the correct policy to refer to. You can access these policies on the academy website or ask for a copy from the academy office.

- Pupil admissions; please see the Academies Admissions Policy or contact Blackpool Council
- Pupil exclusions; please see the Academies Behaviour Policy or Department for Education (DfE) guidance on exclusions (www.gov.uk).
- Statutory assessments of Special Educational Needs and Disability (SEND); contact the Local Authority where you live.
- Staff grievance, capability or disciplinary; these are covered by the academy's Grievance/Disciplinary/Capability/Whistleblowing Policy.
- Where the complaint concerns a third party used by the academy, or a third party which uses the academy premises; please complain directly to the third party themselves.
- Subject Access Requests and Freedom of Information Requests; please see the academy's Data Protection

and Freedom of Information Policy.

- Complaints regarding discrimination and harassment based on protected characteristics as defined in the Equality Act 2010; the Complaints procedure applies.

Anonymous complaints will be investigated as far as possible.

Safeguarding

Wherever a complaint indicates that a child's wellbeing or safety is at risk, the academy is under a duty to report this immediately to the local authority. Any action taken will be in accordance with the academy's Safeguarding Policy.

Social Media

In order for complaints to be resolved as quickly and fairly as possible, Baines 'Endowed requests the complainants do not discuss complaints publically or via social media such as Facebook and Twitter. Complaints will be dealt with confidentially for those involved, and we expect complainants to observe confidentiality also.

Complaints that result in staff capability or disciplinary

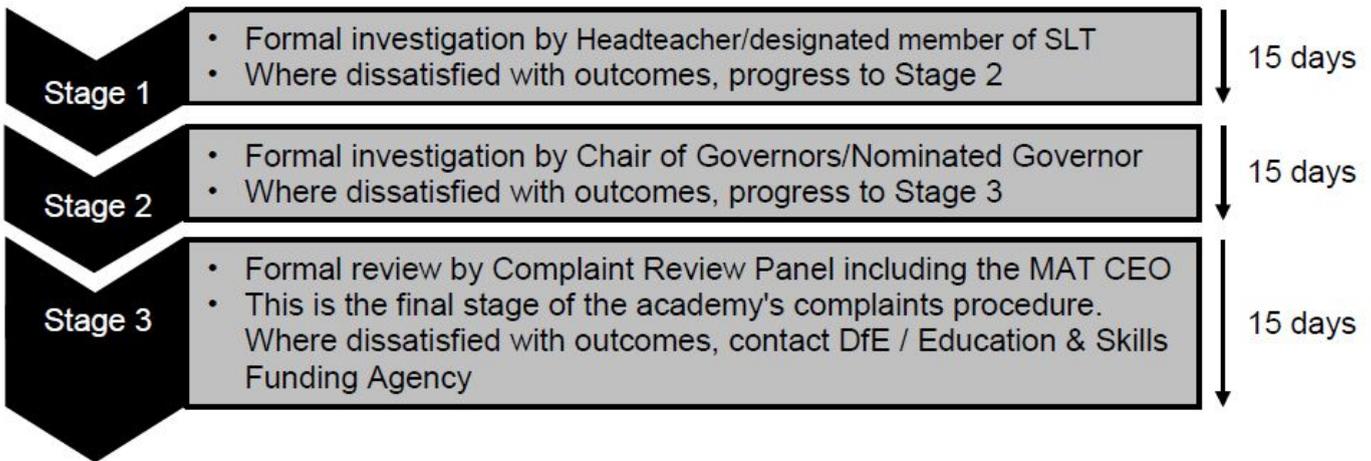
If at any formal stage of the complaint it is determined that staff disciplinary or capability proceedings are necessary in order to resolve the issue, the details of this action will remain confidential to the Headteacher and/or the individual's line manager. The complainant is entitled to be informed that the matter is being dealt with appropriately, but they are not entitled to participate in the proceedings and will not receive any detail about them or the outcome.

Procedure

If you need to raise an issue in the first instance, please do so with the relevant member of staff who will be happy to talk to you and seek to establish a resolution. If you are not satisfied with this response and believe the issue has not been resolved, please use the formal complaints procedure as detailed below.

Timeline for formal complaints

All timescales in this document refer to academy working days i.e. excluding weekends, academy holidays, Inset days etc.



Baines' Endowed will endeavour to abide by timeframes stated under each stage. However, in some circumstances this is not always possible due to the complexity of information needed to review a complaint, difficulties regarding an individual's availability to deal with the complaint, or because of issues that are outside of the academies control. If it becomes apparent that it is not possible to complete any stage of the complaints procedure within a given timeframe, the individual responsible for handling the complaint will contact the complainant as soon as possible and come to an agreed timeframe that works for all parties involved.

Baines 'Endowed reserves the right **not** to investigate complaints that have been made 6 months after the subject of the complaint took place, except in exceptional circumstances. What is meant by exceptional circumstances is where new evidence has come to light, where the complaint is of an especially serious matter or where there is reasonable justification for why the complainant has been unable to raise the complaint before this time. In such circumstances the Headteacher and/or the Chair of Governors will review the situation and decide whether or not to enact the complaints procedure, informing the Chair of Governors of the decision.

Who should I approach at the informal stage of a complaint?

Educational matters: Class teacher

Pastoral care: Deputy Head Teacher

Disciplinary matters: Head Teacher

Financial/Administration matters: Business Manager

Complaint about a staff member's conduct: direct approach to the staff member themselves, or where this is thought inappropriate/does not resolve the situation, their line manager should be approached.

Complaints about the Headteacher or the governors

Where a complaint concerns the Headteacher, the complainant should first directly approach the

Headteacher in an attempt to resolve the issue informally. If the complainant is not satisfied with this outcome, or if they have good reason to feel it is inappropriate to approach the Headteacher in the first instance, they should notify the Chair of the Local Governing Committee (see contact details at the end of the document). The Stage 2 process (in line with the process outlined on page 8) will then commence.

Where a complaint concerns a governor, the complainant should contact the Clerk to the Governing Body. Informal resolution will be sought, but where this fails, the complaints procedure at Stage 2 will take immediate effect with the Chair of Governors/Nominated Governor undertaking the investigation. Where a complaint concerns the Chair of Governors, the investigation will be carried out by the Chief Executive Officer of the Trust.

If the complaint is not resolved then the complainant should write to the Clerk to the Governing Body, requesting that the complaint is considered by the Complaint Review Panel (in line with the process outlined on page 10).

Formal stages of the complaint procedure

Stage 1 - Investigation by the Headteacher/ designated member of SLT

If it has not been possible to reach a resolution at the informal stage, the complainant may progress to the formal complaint procedure. In doing so, the following steps will be followed:

1. Complainant contacts the Headteacher.
2. The complainant must explain in writing:
 - Details of the complaint
 - Action taken so far, and solutions offered
 - Why the complaint remains unresolved
 - What action they would like to be taken to resolve the problem.
3. Receipt of the complaint will be acknowledged. It is likely that the complainant will be invited to meet with the Headteacher or designated member of SLT to discuss the matter.
4. At the meeting the concerns will be discussed, and resolution will be sought. If agreement can be reached at that point on a way forward which is satisfactory to all parties, this will be confirmed in writing following the meeting. If the issues are not resolved by the end of the meeting, the Headteacher/designated member of SLT will then commence a full investigation.
5. The Headteacher/ designated member of SLT will provide the complainant with written confirmation of the outcome of their investigation within 15 days of receipt of the written complaint. If the complainant is not satisfied with the outcome, he/she is able to progress to stage 2 of the complaints process.
6. The Headteacher/SLT will make and retain a record of the concern and the outcomes of the investigation.

Stage 2 - Investigation by the Chair of Governors/Nominated Governor

1. The complainant should submit a Stage 2 complaint form to the Chair of Governors (see Appendix B for the contact details of the Chair of Governors, and Appendix D for a copy of the form). The form is important as it ensures that relevant information is communicated at the outset.
2. The Chair of Governors may choose to delegate the investigation of the complaint to a Nominated Governor.
3. Receipt of the complaint form will be acknowledged. In most cases the complainant will be invited to meet with the Chair of Governors/ Nominated Governor at the outset of the process.
4. The Chair of Governors/Nominated Governor will consider all relevant evidence; this may include but is not limited to:
 - evidence and outcome from Stage 1 investigation if applicable
 - a statement from the complainant
 - where relevant a meeting with/statement from an individual who is the subject of the complaint
 - any previous correspondence regarding the complaint
 - any supporting documents from all parties
- interviews with /statements from anyone related to the complaint
5. After considering the available evidence, the Chair of Governors/Nominated Governor may:
 - uphold the complaint and direct that certain action be taken to resolve it
 - not uphold the complaint and provide the complainant with details of the Stage 3 complaint review process
 - uphold the complaint in part: in other words, the Chair of Governors/Nominated Governor may find one aspect of the complaint to be valid, but not another aspect. They may direct for certain action to be taken to resolve the aspect that they find in favour of the complainant.
6. The Chair of Governors/Nominated Governor should inform the complainant of their decision in writing within 15 days of receipt of the complaint. They should explain clearly why they have come to the decision that they made. They should detail any agreed actions as a result of the complaint. Finally, they should provide the complainant with details of how to progress the complaint to stage three if they are not satisfied, providing them with the contact details of the Clerk to the Governing Body (Appendix B). Should the complaint not be resolved mediation may be helpful. This can be arranged through the Area Academies Support Service and will be impartial and objective.
7. A log of all correspondence in relation to the complaint will be kept in accordance with Data Protection regulations.

Stage 3 - Complaint Review Panel

In order to proceed to Stage 3, the complainant must complete the Stage 3 Formal Complaints Form (Appendix E), identifying the reasons why they feel that the complaint has not been fully investigated thus far, which element(s) of their complaint remain unresolved, and what outcome they are seeking from the Stage 3 Complaint Review. The complainant should inform the academy if they require help with completing the form. The complainant must complete and return the form within 10 days of receiving the Chair of Governor's/Nominated Governor's decision or it will not be considered, except in exceptional circumstances.

The aim of the Complaint Review Panel meeting is to review how the academy has managed the complaint, not to reinvestigate the complaint itself. This will include reviewing evidence and outcomes from Stages 1 and 2 and evaluating whether the academy has followed its policies and procedures. Consideration should also be given to achieving reconciliation between the academy and the complainant however, it has to be recognised that this is not always possible.

The Clerk to the Complaint Review Panel will fulfil the role of organising the time and date of the review meeting, inviting all the attendees, collating all the relevant documentation and distributing these 5 days in advance of the meeting, recording the proceedings in the form of minutes, and circulating these and the outcome of the meeting. The minutes are a summary of the discussion at the hearing and the decision of the Complaint Review Panel following the hearing but will not include the deliberations of the panel. The minutes are the property of the Governing Body.

The following steps will be followed:

1. The Clerk to the Complaint Review Panel will write to the complainant within five days to confirm receipt of the Stage 3 form and detail further action to be taken.
2. The Clerk to the Complaint Review Panel will convene a panel of two academy governors/academy trustees and one independent member

All three panel members will have no prior knowledge of the content of the complaint. Complainants have the right to request an independent panel, if they can demonstrate that there is likely to be bias in the proceedings otherwise. Academies should consider the request but ultimately the decision is made by governors.

3. The complaint review meeting will take place within 15 days of receipt of the request for the Stage 3 complaint review. If the first identified date is not convenient for the complainant, up to two further dates should be offered. If these all fail to be suitable or the complainant cancels the meeting at the last minute for whatever reason, then the Panel may opt to conduct the Complaint Review meeting in private, without either the academy or the complainant being represented. Their considerations will be based on the documentary evidence previously provided by both parties. This is to ensure that the matter is resolved as soon as possible in the best interests of all parties.
4. The Complaint Review Panel will invite the following parties, where applicable:
 - the complainant
 - the Headteacher
 - the Chair of Governors/Nominated Governor who dealt with the complaint at Stage 2
 - relevant witnesses

The complainant may ask to be accompanied to the meeting by a friend, relative, representative or advocate. It is inadvisable for this person to be a member of the academy

community, for reasons of confidentiality and to avoid conflict of interest. The complainant should advise the Clerk to the Complaint Review Panel of the name and role of this supportive companion prior to the hearing, and the Clerk will seek agreement from the chair of the Panel. The supportive companion is not there as a witness, so does not address the Complaint Review Panel except with the prior agreement of the chair.

Neither party is able to bring legal representation with them.

If the attendance of any pupils is required at the hearing, parental permission will be sought if the pupil is under the age of 18. Extra care will be taken to consider the vulnerability of children where they are present at a complaints hearing.

5. The Complaint Review Panel can make the following decisions:

- dismiss the complaint in whole or in part
- uphold the complaint in whole or in part
- decide on the appropriate action to be taken to resolve the complaint
- recommend changes to the governing body regarding the academy's systems or procedures to ensure that problems of a similar nature do not recur.

6. All parties who attended the meeting will be informed in writing of the outcome of the review within 10 days.

This is the final stage at which the academy will consider the complaint. If the complainant remains dissatisfied and wishes to take the complaint further, please see the contact details on page 15. The academy will not consider the complaint beyond this.

Retention

The complaint investigator/the Chair of the Complaint Review Panel should ensure that a copy of all relevant information relating to the complaint is kept at the academy in a secure, confidential file, separate from staff and pupil records. This information should be retained for six years from the date of the complaint, in line with guidance from the Information and Records Management Society (www.irms.org.uk) and in accordance with the principles of the Data Protection Act 1998. The complainant should be informed that this will be done.

Unreasonable complaints and serial and persistent complainants

Baines' Endowed is committed to dealing with all complaints fairly and impartially, and to providing a high-quality service to those who complain. We will not normally limit the contact complainants have with the academy. However, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

Baines' Endowed defines serial and unreasonable complainants as 'those who, because of the frequency or nature of their contacts with the academy, hinder our consideration of their or other people's complaints'.

A complaint may be regarded as unreasonable when the person making the complaint:

- refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance;

- refuses to cooperate with the complaints investigation process while still wishing their complaint to be resolved;
- refuses to accept that certain issues are not within the scope of a complaints procedure;
- insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice;
- introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales;
- makes unjustified complaints about staff who are trying to deal with the issues, and seeks to have them replaced;
- changes the basis of the complaint as the investigation proceeds;
- repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed);
- refuses to accept the findings of the investigation into that complaint where the academy's complaint procedure has been fully and properly implemented and completed including referral to the Department for Education;
- seeks an unrealistic outcome;
- makes excessive demands on academy time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with.

A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:

- maliciously;
- aggressively;
- using threats, intimidation or violence;
- using abusive, offensive or discriminatory language;
- knowing it to be false;
- using falsified information;
- publishing unacceptable information in a variety of media such as in social media websites and newspapers.

Complainants should limit the numbers of communications with an academy while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, telephone, email or text) as it could delay the outcome being reached.

Whenever possible, the Headteacher or Chair of Governors will discuss any concerns with the complainant informally before applying an 'unreasonable' judgement.

If the behaviour continues the Headteacher will write to the complainant explaining that his/her behaviour is unreasonable and asking him/her to change it. For complainants who excessively contact Baines' Endowed causing a significant level of disruption, we may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after 6 months.

In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police informed. This may include banning an individual from the academy premises.

Barring from the academy premises

Although fulfilling a public function, academies are private places. The public has no automatic right of entry. Governing bodies have a responsibility to ensure for the wellbeing of pupils and staff and will therefore act to ensure that academies remain a safe place.

If a parent's behaviour is a cause for concern, an academy can ask him/her to leave academy premises. In serious cases, the Headteacher or the local authority can notify them in writing that their implied permission to be on academy premises has been temporarily revoked subject to any representations that the parent may wish to make. Academies should always give the parent the opportunity to formally express their views on the decision to bar in writing.

The decision to bar should then be reviewed, taking into account any representations made by the parent, and either confirmed or lifted. If the decision is confirmed the parent should be notified in writing, explaining how long the bar will be in place. Anyone wishing to complain about being barred can do so, by letter or email, to the Headteacher or Chair of Governors. However, complaints about barring cannot be escalated to the Department of Education. Once the academy's own complaints procedure has been completed, the only remaining avenue of appeal is through the Courts; independent legal advice must therefore be sought.

Contact details for external organisations if not satisfied with the outcomes of the complaints procedure in full

- If you have any queries regarding any aspect of the complaints procedure, please direct these to the Clerk to the Governing Body (please see Appendix B)
- If the complainant remains dissatisfied with the outcome of the complaints procedure, he/she may contact the academy trust – Cidari Multi Academy Trust – enquiries@cidari.co.uk
- If the complainant feels that the Governing Body acted unreasonably in the handling of the complaint, he/she can complain to the Education and Skills Funding Agency (for academies and Free Academies) after the complaints procedure has been exhausted. Please note that unreasonable is used in a legal sense and means acting in a way that no reasonable academy or authority would act in the same circumstances.

Academies/Free Academies
Education Funding Agency
Complaints
Chief Executive's Office
53-55 Butts Road
Earlsdon Park

Coventry
CV1 3BH

- In addition, complaints can be lodged electronically with the Department for Education, through the website www.gov.uk
- Ofsted will also consider complaints about academies. Complainants can contact Ofsted if they think an academy isn't run properly and needs inspecting. Ofsted will not look into problems with individual students. This course of action is only available if the academy's complaints procedure has already been followed.

<https://contact.ofsted.gov.uk/onlinecomplaints>

Relevant legislation and guidance

The Equality Act 2010 <http://www.legislation.gov.uk/ukpga/2010/15/contents> The

Data Protection Act 1998 <http://www.legislation.gov.uk/ukpga/1998/29/contents>

The Education (Independent Academy Standards) Regulations
2014 <http://www.legislation.gov.uk/uksi/2014/3283/contents/made>

Education Act 2002 <http://www.legislation.gov.uk/ukpga/2002/32/contents>

The Department for Education *Best Practice advice for academy complaints procedures*
<https://www.gov.uk/government/publications/academy-complaints-procedures>

Appendix B

Academy contact details

Baines' Endowed Church of England Primary Academy

Penrose Avenue
Marton
FY4 4DJ

01253 762532

beadmin@cidari.co.uk

Chair of Governors contact details

Chair of Governors - beadmin@cidari.co.uk

Clerk to the Governing Body contact details

Clerk to the LGC - beadmin@cidari.co.uk

Appendix C

Roles and responsibilities

It is expected that all those involved in a complaint are treated respectfully.

The Complainant

The complainant or person who makes the complaint will receive a more effective response to the complaint if he/she:

- co-operates with the academy in seeking a solution to the complaint;
- expresses the complaint in full as early as possible;
- responds promptly to requests for information or meetings or in agreeing the details of the complaint;
- asks for assistance as needed

The complaint investigator (Headteacher/SLT or Chair of Governors/Nominated Governor)

The investigator is the person involved in Stage 1 or 2 of the procedure. The investigator's role can include: -

- providing a comprehensive, open, transparent and fair consideration of the complaint through:
 - sensitive and thorough interviewing of the complainant to establish what has happened and who has been involved;
 - consideration of records and other relevant information;
 - interviewing staff and children/young people and other people relevant to the complaint;
 - analysing information;
- effectively liaising with the complainant to clarify what he/she feels would put things right
- responding to the complainant in plain and clear language

The investigator should make sure that they:

- conduct interviews with an open mind and are prepared to persist in the questioning;
- keep notes of interviews or arrange for an independent note taker to do so.

The Stage 3 Clerk to the Complaint Review Panel

The Clerk to the Complaint Review Panel is the contact point for the complainant for this panel meeting and is expected to: -

- set the date, time and venue of the hearing, ensuring that the venue and proceedings are accessible (please see page 11 for more information).
- collate any written material and send it to the parties in advance of the hearing;
- meet and welcome the parties as they arrive at the hearing;
- record the proceedings;

- circulate the minutes of the panel hearing to the complainant, the panel, the Headteacher and the Area Academies Support Service representative (if in attendance);
- notify all parties of the panel's decision

The Stage 3 Chair of the Complaint Review Panel

The Chair of the Complaint Review Panel has a key role in ensuring that:

- the meeting is minuted;
- the procedure for the hearing is explained;
- the role of the Clerk to the Complaint Review Panel and the Trust representative is explained (including that they take no part in the decision-making but are there to record proceedings and provide procedural advice);
- the remit of the panel is explained to the complainant and both they and the academy have the opportunity of putting their case without undue interruption;
- the issues are addressed;
- key findings of fact are made;
- the hearing is conducted in a manner whereby everyone is treated with respect and courtesy;
- the panel is open-minded and acts independently;
- no member of the panel has an external interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure

Appendix D

Baines' Endowed Formal Complaints Form (Stage 2)

| | |
|--|--|
| Name | |
| Name of pupil, year group and your relationship to them (where applicable) | |
| Address | |
| Telephone (Day) | |
| Telephone (Mobile) | |
| Email Address | |

| |
|--|
| Details of the complaint |
| |
| Action taken so far (including staff member who has dealt with it so far) or solutions offered |
| |
| The reason that this was not a satisfactory resolution for you |
| |
| What action would you like to be taken to resolve the problem? |
| |

| | |
|---------------------|---------|
| Signed: | |
| Date: | |
| <i>Official use</i> | |
| Date received: | Signed: |

Appendix E

Baines' Endowed Formal Complaints Form (Stage 3)

| | |
|--|--|
| Name | |
| Name of pupil, year group and your relationship to them (where applicable) | |
| Contact Address | |
| Contact Telephone (Day) | |
| Contact Telephone (Mobile) | |
| Contact Email Address | |

| |
|---|
| Reasons for requesting a Stage 3 Complaint Review (reasons why you feel your concerns have not been fully addressed, and any evidence that you feel has not been fully considered) |
| |
| Which element(s) of your complaint remain unresolved from the previous stage? |
| |
| What outcome are you seeking from the Stage 3 Complaint Review? |
| |

| |
|---------|
| Signed: |
|---------|

| |
|-------|
| Date: |
|-------|

Official use

| | |
|----------------|---------|
| Date received: | Signed: |
|----------------|---------|

If you need procedural advice regarding your complaint Cidari Multi Academy Trust on 01254 958888.