



East Durham College

Policy Document

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Document Control

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The latest version of the procedure will be maintained on the College Extranet

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Complaints Policy – Complaints against Governors



Scope

This policy sets out the procedure by which an individual employee or a group of employees acting jointly on the same grounds, is able to raise a complaint related to the actions or inactions of a governor of the College (the **Alleged Governor**). It supplements the Complaints Procedure General (procedure number 5.1.12) in relation to all governors including the Chair and the Vice Chair of the College.

Purpose

This policy and procedure is to ensure that employees have an opportunity to raise formally any complaints relating to an Alleged Governor and to have their complaint considered by another governor of the College. The aim of the procedure is to ensure that the employee's complaint is dealt with promptly and fairly following an appropriate governance procedure.

Policy statement

The College is committed to creating a positive working environment. It is recognised, however, that there may be occasions where an employee may wish to raise a concern, problem or complaint relating to an Alleged Governor, whether arising out of the employee's employment or otherwise. It is expected that the majority of such concerns will not develop into formal complaints but will be dealt with quickly and satisfactorily through informal discussion. However, where the formal procedure is used, the employee has the right to have his or her complaint carefully and impartially investigated and, after appropriate consideration and discussion, to receive a final response.

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1. General Principles

When applying this policy the following general principles will be used:

- The governors of the College will deal with all complaints raised about an Alleged Governor, whether or not the complaint is presented in writing. If the formal procedure is to be followed, the complaint should be set out in writing. If this is difficult for the employee, they should seek help from their line manager.
- In circumstances where a complaint may apply to more than one individual, it may be considered appropriate to deal with a spokesperson from the group.
- Complaints should normally be dealt with promptly by a governor of the College.
- Confidentiality is extremely important when handling complaints against governors especially where they are of a sensitive nature. In most circumstances the outcome(s) of a complaint will only be communicated to the employee and the Alleged Governor, unless the outcome requires disclosure to a wider group of governors of the College as a whole for reasons of good governance and appropriate oversight.
- All associated documentation will be treated as confidential and kept in accordance with data protection principles contained in the Data Protection Act 2018 as amended from time to time, which provide that any personal data kept should be necessary, fairly and lawfully processed, relevant, accurate and secure.
- The employee has the right at each formal stage to be accompanied by their line manager.
- Where possible, employees should raise their complaint informally with their line manager in the first instance, normally within 5 working days following the matter that prompted the complaint. This could include 5 working days from the last in a series of incidents/issues which caused the complainant to raise the complaint. The line manager will escalate the complaint to the Principal (unless the complaint relates to the Principal in their capacity as a governor in which case it will be escalated to the Chair) who will liaise with the governor to the College who will consider the complaint and the Clerk.
- All complaints should be dealt with in a timely manner. The timescales have been suggested to ensure that all complaints progress quickly. It is recognised that investigations may take longer than the suggested timescales and these circumstances will be discussed with all parties.
- The employee can request that the date of the complaint meeting be rearranged if they are unable to attend or to arrange for their line manager to attend on the proposed date. Where possible this should be within 10 working days of the original complaint meeting date.

2. Raising Complaints Informally

Employees are expected and encouraged to raise issues informally with their line manager in the first instance and their line manager will raise the issue directly with the Principal. If this is not possible, then employees may raise issues directly with the Principal. The Principal will liaise with a governor of the College and the Clerk to seek to address the complaint. Where the complaint relates to the Principal in their capacity as governor the complaint will be raised directly with the Chair.

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Every effort should be made to resolve complaints at the informal stage and the College supports a range of available methods to assist resolution. The Clerk and/or external impartial advisers may provide support, take notes and facilitate discussions where required on a strictly confidential basis.

In some cases mediation may help to resolve the complaint. Where both parties are in agreement with this option, trained independent mediators can facilitate this process.

The governor of the College who is identified to consider the complaint against an Alleged Governor is expected and encouraged to respond to issues raised by an employee as quickly as is practicable.

The Clerk can provide further advice and guidance on resolving issues with Alleged Governors informally.

Where the informal stage has been unsuccessful, or circumstances make the informal stage inappropriate, the employee can raise a written formal complaint.

3. Formal Written Complaints

Where an informal resolution or the informal approach has not been successful, the employee may invoke formal complaint proceedings. All formal complaints must be put in writing, clearly dated outlining the nature of the formal complaint with sufficient explanation. Where there is a group of employees, the group should select a spokesperson. The employee (or spokesperson) will be invited to attend a meeting with a governor of the College to discuss the matter. The meeting will normally take place within 10 working days of the formal complaint being raised.

As a result of the initial complaint meeting, the governor of the College, may determine that it is necessary to make further enquires or conduct an impartial investigation into other background facts or matters as they see fit before determining the outcome of the complaint. See paragraph 4 for further details.

On receipt of a Formal Written Complaint, the Principal (or where relevant the Chair) will consult with the Clerk (or an external impartial adviser) who will be responsible for maintaining consistency and fairness within the procedure. This may include the Clerk (or external impartial adviser) attending the complaint meeting in an advisory capacity and taking notes.

Complaints that amount to an allegation of misconduct or inappropriate behaviour on the part of an Alleged Governor may be dealt with in accordance with the Instrument and Articles of Government and/or the Governors' Code of Conduct where appropriate.

4. Investigation

Where it is determined that additional investigation is required the governor of the College considering the Formal Written Complaint will complete a full and fair investigation of the facts and circumstance of the Formal Written Complaint as soon as possible after the Formal Written Complaint is submitted. In all circumstances the employee will be advised of the timescales being worked to.

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The governor of the College considering the Formal Written Complaint will talk to the employee to get a full understanding of the situation, will give the Alleged Governor an opportunity to hear the complaint and to respond to specific allegations, will give the Alleged Governor an opportunity to offer an explanation by responding to questions, and will listen to any witnesses by taking a fair and impartial view of the information that emerges. The Clerk or an external impartial adviser will be present to take notes of the complaint meeting. All employees helping out with the investigation of the formal complaint will be advised of the details of the meeting and may be accompanied by their line manager.

The governor of the College considering the formal complaint will ask the employee what they would like as an outcome of raising the formal complaint. This will help them to manage the expectations of the employee. After considering the formal complaint, the governor of the College considering the complaint will share the outcome of the formal complaint with the Clerk detailing their findings and making recommendations as to whether or not further action should take place.

5. Accompaniment

The employee may bring their line manager to any complaint meeting under this procedure, but must inform the Principal (or where relevant the Chair) if they wish to do so.

At the meeting the line manager may ask questions, but should not answer questions on the employee's behalf. The employee may confer privately with their line manager at any time during the meeting.

A line manager is under no obligation to accompany an employee but are encouraged to do so if requested. If the line manager is for any reason an unsuitable companion the employee may be asked to choose someone else, for example:

- the line manager may (in the opinion of the College) have a conflict of interest or may prejudice the meeting; or
- the line manager may work at another site and someone reasonably suitable is available at the site at which the employee works; or
- if the line manager is unavailable at the time a complaint meeting is scheduled and will not be available for more than five working days.

The College may, at its discretion, allow employees to bring a companion who is not their line manager (for example a member of their family) where this will help overcome a disability, or where there is any difficulty understanding English.

Employees and anyone accompanying them or providing information relating to the complaint must not make electronic recordings of any complaint meeting.

6. Complaint Meetings

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The Principal's Office will arrange and send an invitation to a complaint meeting as soon as reasonably practicable, depending upon the extent of any initial enquiries required.

Prior to the meeting the employee will be sent copies of any relevant documents or written statements which may be referred to in the complaint meeting, and the employee should also provide the Principal's Office with copies of any other documents they may refer to, in advance of the meeting.

The employee and line manager should make every effort to attend a complaint meeting. If the employee or their line manager cannot attend at the time specified, the employee should inform the Principal's Office immediately and the Principal's Office will try, within reason, to agree an alternative time, taking into consideration that the governing considering is the complaint's availability.

The purpose of the complaint meeting is to enable the employee to explain their complaint and how the employee would like it to be resolved, and for the employee to assist the governor of the College in resolving the problem and reaching a decision.

After a complaint meeting, the governor of the College considering the formal complaint may undertake further enquiries and hold further meetings as they consider appropriate. Such meetings will be arranged without unreasonable delay.

The governor of the College will write to the employee to inform them of the outcome of the complaint and any further action that the governor of the College or where relevant the Board of the College intends to take to resolve the complaint. This outcome may also be communicated through the Principal or the Clerk but will be the decision of the governor of the College. Where appropriate the governor of the College, or the Principal or the Clerk may hold a meeting to give the employee this information in person.

7. Appeals

If the complaint has not been resolved to the employee's satisfaction the employee may appeal in writing to the governor(s) of the College named in the outcome, stating their full grounds of appeal, within 10 days of the date on which the outcome of the complaint was sent or given to the employee. The appeal will be referred to a governor(s) of the College who has/have not previously been involved in the complaint.

Formal complaints against an Alleged Governor other than the Chair or the Vice Chair will ordinarily be considered in the first instance by another governor of the College and referred on appeal to either the Chair or Vice Chair of the College.

Formal complaints against the Vice Chair shall be considered by the Chair, and formal complaints against the Chair shall be considered by the Vice Chair, and each shall be referred on appeal to a committee of two governors who have not previously been involved in the process.

The appeal will be managed in accordance with the terms of this procedure, with guidance from the Clerk or an external impartial adviser.

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Please note that a complaint appeal meeting will not normally be re-arranged on more than one occasion, so as not to unreasonably delay the process. After one offer of a new date, or consideration of any other reasonable adjustments that may have been considered, any subsequent complaint appeal meeting will go ahead in the employee's absence and the decision will be communicated to them in writing wherever possible within one week of the date that the complaint appeal meeting took place.

The governor(s) considering the appeal will hold the complaint appeal meeting as soon as reasonably practicable with parties who are relevant to the appeal.

The governor(s) considering the appeal will confirm the final decision in writing, usually within one week of the complaint appeal meeting. This is the end of the procedure and the decision made at this stage will be final. There is no further right of appeal.

8. Procedure for Senior Post Holders and Clerk

The principles of this Complaints Policy will apply to Senior Post Holders and the Clerk (where they are an employee) with the following modifications:

Where the Principal or Clerk wish to raise a complaint against a governor:

- The written complaint should be raised with the Chair (or if it relates to the Chair the Vice Chair) who will consider it in accordance with the terms of this policy;
- An appeal against a complaint decision should be made in writing to:
 - the Vice Chair if it is against a decision of the Chair; or
 - the Chair if it is against a decision of the Vice Chair; or
 - any other governor of the College if both the Chair and the Vice Chair have previously been involved.
- Arrangements will then be made for the appeal to be considered by a committee of at least two governors who have not previously been involved in the process.

Where other senior post holders wish to raise a complaint against a governor:

- The written complaint should be raised in accordance with this policy.

Please feed back to the Quality Team any constructive suggestions on how any aspect of the procedure may be clarified or improved