



**The Black  
Pear Trust**

# COMPLAINTS POLICY

<b>Approved by:</b>	Black Pear Trust Board	<b>Date:</b> 15 <sup>th</sup> October 2020
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## **Contents:**

1. Introduction
2. Related Processes
3. Safeguarding
4. Raising Concerns
5. Complaints that result in staff capability and disciplinary
6. Procedure and Timeframes
7. Complaints about the Principal or Governors
8. Complaints about Regional Directors or Senior Management Team
9. Complaints about the Chief Executive Officer or Trustees
10. Stages of a Complaint
11. Reporting and Recording Complaints
12. Serial, Unreasonable and Duplicate Complaints
13. Contact Details
14. Relevant Legislation and Guidance

Appendix A: Formal Complaints Form

## STATEMENT OF INTENT

This policy outlines the process and timelines to make a complaint about the Black Pear Trust as a Trust or any individual Black Pear Trust school. This policy applies to any person who wishes to make a complaint, including members of the public.



## INTRODUCTION

The Black Pear Trust is committed to providing the very best education and school experience to pupils across all our schools. We welcome any feedback as an important part of continuous improvement and accept that this will not always be positive. When concerns are raised, they will be dealt with promptly through a fair, transparent process and without prejudice. The following policy explains how to raise a concern or make a complaint and what process The Black Pear Trust staff will follow to resolve the matter as quickly as possible.

## RELATED PROCESSES

In some specific situations an alternative policy will need to be followed to deal with the concern appropriately. This is usually because a statutory process must be followed to meet our legal duty. The following list details some specific situations where this applies:

SUBJECT OF CONCERN	APPROPRIATE POLICY	AVAILABLE FROM
Pupil admissions	Individual school's Admissions Policy	School's website
Pupil exclusion	Individual school's Behaviour Policy	School's website
Staff grievance, capability or disciplinary	The Black Pear Trust adopts the Worcestershire Local Authority model Staff grievance policy	<a href="mailto:kjoiner@blackpeartrust.org">kjoiner@blackpeartrust.org</a>
Anonymous complaints	The Black Pear Trust Whistleblowing Policy	<a href="mailto:kjoiner@blackpeartrust.org">kjoiner@blackpeartrust.org</a>
Safeguarding and Child Protection	Individual School's Safeguarding and Child Protection Policy	School's website

### Please note:

Where a complaint concerns a third party used by The Black Pear Trust or by an individual trust school **please contact the third party directly.**

Where a complaint concerns a pupil's statutory assessment of Special Educational Needs **please contact the Local Authority directly.**



## SAFEGUARDING

Wherever a complaint indicates that a child's safety or wellbeing is at risk, Black Pear Trust Schools has a duty to report this immediately to the relevant Local Authority. Any action taken will follow the Safeguarding and Child Protection Policy, available from the school's website.

## RAISING A CONCERN

Most concerns can be dealt with outside of the formal complaints process and should be raised by phone, email or in person with a relevant member of staff. The best person to speak to initially will be the member of staff who will have the best understanding of the situation and can best answer your queries, for example:

- A concern regarding homework allocation for a particular subject could be raised with the subject teacher.
- A parent's concern about their child's friendship with another child in their class could be raised with the class or form teacher.
- A concern about a member of staff could be raised with the subject lead or the headteacher.

Wherever possible, informal concerns will be responded to quickly and resolved amicably. Ideally, your concern will be addressed within 24hrs or a meeting may be arranged with you to discuss the issue. However, where a matter is regarding classroom-based staff please be mindful of their availability and reasonable in your expectation of response times, particularly to concerns received by email.

## COMPLAINTS THAT RESULT IN STAFF CAPABILITY AND DISCIPLINARY

If, at any stage, it is necessary to undertake staff disciplinary or capability proceedings as the result of a complaint, the details of this action will remain confidential to the individual's line manager and any relevant member(s) of The Black Pear Trust team directly involved in the proceedings. The complainant is entitled to be informed that action is being taken but they are not entitled to participate in proceedings or receive any detail about them.



## PROCEDURE AND TIMEFRAMES

Wherever possible, please raise initial concerns with the relevant member of staff as detailed in section 4 of this policy. If you are not satisfied with the response and believe the issue has not been resolved, please follow the procedure below.

For the majority of complaints, Black Pear Trust Schools staff will follow the timescales in this policy. However, in complex cases more time may be needed to conduct a full and fair investigation or convene a panel of governors or trustees. In this instance, extended timescales will be confirmed at the earliest possible opportunity.

Black Pear Trust Schools reserves the right not to investigate complaints that have been made more than three months after the subject of the complaint took place unless in exceptional circumstances; for example: where new evidence has come to light; if the complaint is about an especially serious matter or where there is reasonable justification for why the complainant couldn't raise the matter sooner. The headteacher (or the CEO for complaints about Black Pear Trust Schools as a Trust) will make the decision on whether or not to invoke the complaints procedure in this instance and inform the appropriate staff of the decision.

### **Raising a concern:**

- Concern raised informally with relevant staff by email, phone or in person
- Quick response and resolution (usually within 24hrs) or meeting scheduled to discuss

### **Stage one:**

- Concern escalated to Headteacher for informal investigation (outcome expected in 10 school days)
- Where complainant is dissatisfied with outcome; submit formal complaint for progression to Stage 2

### **Stage two:**

- Complaint escalated to Trust CEO for formal investigation
- Where complainant dissatisfied with outcome; submit written request for formal appeal panel review



## COMPLAINTS ABOUT THE HEADTEACHER OR GOVERNORS

Where a complaint regards a Headteacher this should first be raised directly with the Headteacher to try and resolve the issue informally. If the complainant is not satisfied with this outcome they should submit a complaint to [kjoiner@blackpeartrust.org](mailto:kjoiner@blackpeartrust.org). The trust CEO will then begin the complaints process at stage 1.

Where a complaint regards a Governor, a complaint should be submitted to [kjoiner@blackpeartrust.org](mailto:kjoiner@blackpeartrust.org). The Chair of the Board of Trustees will then begin the complaints process at stage 1.

## COMPLAINTS ABOUT THE CHIEF EXECUTIVE OFFICER OR THE TRUSTEES

Where a complaint regards the CEO this should first be raised directly with the CEO to try and resolve the issue informally. If the complainant is not satisfied with this outcome they should notify the Clerk to the Board of Trustees. The complaints process will then begin at stage 1 with the Chair of Trustees as the individual responsible for the investigation.

Where a complaint regards a Trustee this should be raised with the Clerk to the Board of Trustees who will decide who is the most appropriate person to deal with the complaint. Informal resolution will be sought but where this fails the complaints process will begin at stage 1 with a Trustee (who is unrelated to the complaint) responsible for the investigation.

## STAGES OF A COMPLAINT

All complaints will be handled in the order and procedure outlined below, from Stage 1 to Stage 3 consecutively. The first point of contact for making a complaint is the **school's main email address** (available on the school's website).

### STAGE 1 – INFORMAL INVESTIGATION

If an initial concern has been raised and the complainant feels the issue has not been addressed or if the school/department recommends the initial concern warrants more detailed investigation, a stage 1 informal complaints investigation will be conducted following the below process:



- i. Complainant contacts the **main school email address** (available on the school's website).

The complainant should explain in writing:

- A summary of the complaint so far
  - Who has been involved (*use job titles if names are not known*)
  - Why the complaint remains unresolved
  - What is needed to resolve the complaint (*e.g. an explanation / apology / further action*)
- ii. Within two school days a response will be given to acknowledge receipt of the complaint, confirm who the complaint has been forwarded to for investigation and the timescales for a response.
  - iii. The Headteacher may conduct the stage 1 informal investigation themselves or instruct an appropriate member of their team to conduct the investigation.
  - iv. The outcome(s) of the investigation will be provided to the complainant in writing within ten school days of confirming an informal investigation will be undertaken.
  - v. If the complainant is not satisfied with the outcome they may request the complaint is escalated to stage 2 by submitting a formal complaint. Where possible, **please use the Formal Complaint Form (available at appendix A)** to submit a formal complaint however any complaint marked as 'formal' and submitted in writing will be accepted.
  - vi. Written records of the complaint and informal investigation will be held at the school for twelve months, in line with the principles of the Data Protection Act 2018.





## STAGE 2 – FORMAL INVESTIGATION

- vii. If the complainant is not satisfied with the outcome at stage 1, they may submit a formal complaint.
- viii. Within two school days a response will be given to acknowledge receipt of the formal complaint, confirm who the complaint has been forwarded to for formal investigation and the timescales for a response.
- ix. The Trust CEO may conduct the stage 2 formal investigation themselves or instruct an appropriate person to conduct the investigation.
- x. The investigator will consider all relevant evidence to the complaint; this may include but is not limited to:
- The formal complaint from the complainant
  - Written records from the phase 1 informal investigation
  - Previous correspondence regarding the complaint
  - A statement from the complainant
  - A statement from any individual who is the subject of the complaint
  - Any supporting evidence in either case
  - Interview with anyone relevant to the complaint
- xi. The investigator may decide to meet with the complainant, or anyone who is the subject of the complaint, if they feel it would be appropriate for the investigation; however, there is no expectation that an investigation will always include this.
- xii. The Trust CEO will consider the findings and evidence from the formal investigation and confirm the outcome in writing within twenty school days of confirming a formal investigation will be undertaken.

The Trust CEO can:

- Uphold the complaint and direct relevant action to resolve it
- Reject the complaint, stating the rationale for this decision, and provide the complainant with details of the stage 3: appeals process
- Uphold the complaint in part (i.e. uphold part of the complaint but not all of it) and direct relevant action to resolve the specific aspect of the complaint which has been upheld.



- xiii. If the complainant is not satisfied with the outcome of the stage 2 formal investigation, they may appeal to a Complaint Review Panel (stage 3). This request should be made in writing to [kjoiner@blackpeartrust.org](mailto:kjoiner@blackpeartrust.org).

### STAGE 3 – COMPLAINT REVIEW PANEL (FINAL STAGE)

If the complainant is not satisfied with the decision made at stage 2: formal investigation, or unhappy with the investigation process, they may appeal to a Complaint Review Panel.

Where the complaint is regarding an individual Black Pear Trust school the Complaint Review Panel will be made up of two Governors from the school's Local Governing Body (LGB) and one person who is independent of the management and running of the school.

Where the complaint is regarding Black Pear Trust Schools as a Trust, the Complaint Review Panel will be made up of two Black Pear Trust Trustees and one person independent of the Trust.

The complainant must request an appeal panel in writing within 20 school days of receiving the decision after the stage 2 formal investigation or it will not be considered, except in exceptional circumstances. The request should be sent to [kjoiner@blackpeartrust.org](mailto:kjoiner@blackpeartrust.org); on receipt of this request, the following process will be followed:

- xiv. The Complaint Review Panel clerk will write to the complainant within five school days to confirm receipt of the request and provide details of further action to be taken.
- xv. The clerk will convene a panel of two governors/trustees and one independent person. All three panel members will have had no prior involvement in the matter.
- xvi. The appeal meeting will take place within thirty school days from the date the clerk acknowledged the complainant's request for an appeal panel.



- xvii. All supporting evidence and paperwork will be circulated to panel members and attendees five school days prior to the meeting. No late papers or written evidence will be considered unless in exceptional circumstances.
- xviii. In addition to the three panel members the following parties will be invited to attend the meeting:
- The complainant
  - The person responsible for the stage 2 formal investigation
  - Where the complaint regards a member of staff; the staff member who is the subject of the complaint
- The complainant is also able to bring a companion with them to the hearing if they wish. Where the subject of the complaint is about a member of staff, that member of staff may also bring a companion with them.
- The companion will be a friend or colleague. Neither party may bring legal representation with them.
- xix. If the attendance of any pupil is required at the hearing, parental permission will be sought if they are under the age of 18. Extra care will be taken when a panel hearing involves the attendance of children and, where possible, alternative methods of providing the child's evidence/input will be used.
- xx. The 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 Trust or school's systems or procedures to ensure that problems of a similar nature do not recur.
- xxi. All parties who attend the meeting will be informed in writing of the outcome of the appeal within five school days of the hearing date. A copy of the panel's findings and recommendations will be provided to the complainant and, where relevant, the person complained about.



Stage 3: Complaint Review Panel is the final stage of Black Pear Trust complaints process. The Trust or school will not consider the complaint beyond this point. If the complainant remains dissatisfied and wishes to take the complaint further, they should contact the Department for Education.

## REPORTING AND RECORDING COMPLAINTS

A written record of all formal complaints will be held centrally by the Black Pear Trust, including which stage of the complaints procedure they were resolved, and any action taken by the school as a result of the complaint (regardless of whether it was upheld or not).

Where a complaint progresses to stage 3 (Review Panel), the findings and recommendations made by the panel will be sent in writing to all parties and made available for inspection on the school premises by a representative of the Black Pear Trust and the Headteacher.

All correspondence, statements and records relating to individual complaints will be kept confidential, except where the Secretary of State or a body conducting an inspection under section 109 of the 2008 Act requests access to them.

## SERIAL, UNREASONABLE AND DUPLICATE COMPLAINTS

### I. SERIAL COMPLAINTS

Where a complainant raises an issue that has already been dealt with via the complaints process in this policy, and the procedure has been completed, the issue will not be reinvestigated unless in exceptional circumstances, such as where new and relevant evidence has been provided.

If a complainant persists in raising the same, or substantially similar, issue the Black Pear Trust will confirm in writing that their complaint has been dealt with fully in line with this policy and the case is now closed. They will also provide details of how to raise the issue with the Department for Education if they wish to take the matter further.

### II. UNREASONABLE COMPLAINTS

The headteacher will use their discretion to choose not to investigate complaints which are deemed to be unreasonable. Where this decision has been made, they must inform the Trust CEO of this decision, explaining the nature of the complaint and their reasons for choosing not to investigate. If the CEO deems it appropriate, they may redirect the headteacher to investigate the complaint. The full complaints procedure will then commence from stage 1.



Unreasonable complaints include, but are not limited to, the following scenarios:

- The complainant refuses to cooperate with the school's relevant procedures.
- The complainant changes the basis of their complaint as the investigation progresses.
- The complainant seeks an unrealistic outcome.
- Excessive demands are made of the time of staff and governors which are clearly intended to aggravate and/or cause disruption.
- The complainant acts in a way that is offensive, abusive or discriminatory.

If the CEO upholds the decision not to investigate an unreasonable complaint and the complainant deems this decision to be so unreasonable that no other rational body in the same position would have made this decision, then the complainant may write to the Department for Education (see section 13 for contact details).

### III. DUPLICATE COMPLAINTS

When a complaint has been through the full complaints process and is closed, any subsequent complaint received from a spouse, partner, grandparent or child (where the child is a subject in the complaint) about the **same** subject matter will be deemed a duplicate complaint.

In this instance, the complainant will be informed that the matter has already been considered and the full complaint process completed. The Black Pear Trust will therefore not reinvestigate the matter. The complainant will be advised to contact the Department for Education if they are unhappy with the Black Pear Trust handling of the original complaint.

Before deciding that a complaint will be treated as 'duplicate', the Black Pear Trust will take care to ensure there are no new aspects to the complaint that have not previously been considered. Any new aspect identified will be investigated through the full complaint process as a new complaint.



## CONTACT DETAILS

- Initial concerns and stage 1 complaints should be submitted to the **school's main email address** (available on the school's website).
- Queries about the complaints process and stage 2/formal complaints should be sent to either the school's main email address or [kjoiner@blackpeartrust.org](mailto:kjoiner@blackpeartrust.org).
- Complaints about Governors, Directors and Trustees should be sent to [kjoiner@blackpeartrust.org](mailto:kjoiner@blackpeartrust.org).
- If the complainant feels that the Black Pear Trust has acted 'unreasonably' in the handling of a complaint, they can complain to the Department for Education **after** the complaints process has been fully completed. Please note that 'unreasonable' is used in a legal sense and means acting in a way that no reasonable school or authority would act in the same circumstances.

[www.education.gov.uk/contactus](http://www.education.gov.uk/contactus)

Tel: 0370 000 2288

Department for Education  
Piccadilly Gate  
Store Street  
Manchester  
M1 2WD

## RELEVANT LEGISLATION AND GUIDANCE

[The Equality Act 2010](#)

[The Data Protection Act 2018](#)

[Education Act 2011](#)

[The Education \(Independent School Standards\) Regulations 2014](#)

The Department for Education: [Best Practice Guidance for school complaints procedures 2019](#)



APPENDIX A

THE BLACK PEAR TRUST FORMAL COMPLAINTS FORM

This form should be used to raise a formal complaint only after a matter has been raised with the school at stage 1 of the complaints process and you are not satisfied with the response. Please refer to the Black Pear Trust Complaints Policy (available on the school's website) when completing this form.

School Name (where applicable)	
Name	
Name of pupil, year group and your relationship to them (where applicable)	
Contact email address	
Contact telephone	
Contact address	
Details of the complaint	
<p>What action has been taken so far, which staff member has dealt with the matter and what solution has been offered (where relevant)?</p>	



The reason this was not satisfactory for you

What action would you like to be taken to resolve the matter?

Signed..... Date.....

PRINT.....