

Recruitment and Selection Complaints Procedure – All Staff

This content is applicable to both teachers and support staff:

1. INTRODUCTION

- 1.1 As an equal opportunities employer the Governing Body of St Peter's CE Primary School is committed to the elimination of unfair and unlawful discrimination in employment. It has adopted this procedure to support that commitment.
- 1.2 The procedure can be used by any internal or external applicant who feels that they have been unlawfully or unfairly discriminated against at any stage of the recruitment and selection procedure.
- 1.3 The Governing Body will ensure that all employees and potential employees are made aware of this procedure. It will publish the procedure through its scheme of publication in accordance with the Freedom of Information Act.
- 1.4 In line with the Council's Recruitment and Selection Code of Practice candidates should be given the opportunity to discuss the outcome of their application. Therefore, if on receipt of a complaint the person nominated by the Governing Body to deal with the complaint in accordance with this procedure feels that there is scope for information discussion (and where this has not already taken place), he or she may offer informal discussion. Applicants may reject this offer without detriment.
- 1.5 Whether a person uses this procedure or not, she/he remains entitled to pursue an application to a Tribunal or Court of Law in respect of any statutory rights she/he may have under relevant legislation.
Complainants should note that if they wish to pursue an application to a Tribunal, they must do so within 3 months of the alleged event taking place.
- 1.6 A Complainant may wish to seek advice or be accompanied by a representative of her/his choice. An existing employee of the school has the right to request to be accompanied by a trade union representative or another employee of the school.
- 1.7 All complaints will be treated in confidence. The making of a complaint will not affect an individual's future treatment in terms of recruitment, selection, promotion or services provided.
- 1.8 The Governing Body will make special arrangements where necessary for Complainants with disabilities or special needs, such as difficulty with writing.

2. THE PROCEDURE

- 2.1 The complaint, stating the grounds upon which it is made, must be submitted in writing to the Clerk to the Governing Body within one calendar month of the event referred to take place.
- 2.2 The Governing Body delegates the function of dealing with complaints to the Chair of the Staffing Committee, or, if the Chair has been involved in the process about which the complaint is made, to the Chair of the Governing Body or a member of the Finance Committee and, if the complaint goes to appeal under Section 3 below, to the appeals committee. The delegation includes the power to "freeze" the recruitment process where appropriate and practicable (see below).

- 2.3 Within 7 working days of receiving a complaint, the Governor to whom the function has been delegated should:
 - a) Acknowledge receipt of the complaint
 - b) Determine whether it is appropriate or practicable to “freeze” the appointment (see 5 below)
 - c) Commission an investigation from a suitable person not involved in the selection process for the appointment (taking advice from the Employee Relations team or Schools Management Support if no suitable person is available within the school).
- 2.4 The investigator should follow relevant sections of the authority’s guidance for schools on investigations (see appendix).
- 2.5 The investigator will be responsible for preparing a written report to the Governor showing how the investigation was carried out, a summary of the evidence received and recommended action, including any available remedies (see Section 4 below). This report will normally be presented within 10 to 20 working days of the investigation being commissioned.
- 2.6 On receipt of the report the Governor will consider the evidence and decide on the appropriate action. If the Complainant is an employee of the school the Governor will follow Section 3 of these procedures. Otherwise the Governor, or the Clerk to the Governing Body on behalf of the Governor, will write to the Complainant advising her/him of the outcome of the complaint.

3. COMPLAINTS FROM CURRENT EMPLOYEES

- 3.1 This section of the procedure applies in the case of a complaint from a current employee of the school.
- 3.2 The Governor will offer to meet the Complainant, who has the statutory right to request to be accompanied by a trade union representative or fellow-employee. The Governor will make all reasonable efforts to arrange a date for the meeting with the employee, who should take all reasonable steps to attend. If the employee or the employee’s companion cannot attend on a proposed date, the employee may suggest another date provided that the date is no more than five working days after the date originally proposed by the Governor. This limit of five working days may be extended by mutual agreement.
- 3.3 At least five working days before the meeting the Complainant shall be provided with a copy of the report of the investigator, subject to the provisions of the Data Protection Act, particularly as regard releasing information about third parties. The investigator and Governor will be expected to take advice from the local authority on the provisions of the Data Protection Act in these cases.
- 3.4 The Governor will arrange for a full record of the meeting to be kept.
- 3.5 Following the meeting the Governor will consider what action to take in response to the report of the investigator and the comments made by the Complainant during the meeting with the Governor. If the Complainant declines to attend a meeting the Governor will make a decision on the basis of the report of the investigator. The Governor, or the Clerk to the Governing Body on behalf of the Governor, will then write to the Complainant to confirm the outcome of the complaint. The Governor will also advise the Complainant of the right of appeal.
- 3.6 The Complainant has the right of appeal to the Governing Body’s appeals committee. The Complainant should be asked to notify the Clerk to the Governing Body of his or her intention to appeal within ten working days of receiving the letter confirming the outcome

of the complaint. The appeal hearing will be arranged and conducted in accordance with the relevant sections of the school's grievance procedure.

4. REMEDIES AVAILABLE WHEN COMPLAINTS ARE UPHELD

- 4.1 If a complaint is upheld at any stage of the procedure the prime object of the Governor dealing with the complaint or the appeals committee (as the case may be) of the Governing Body will be to offer a remedy which best restores that person's position within the recruitment and selection procedure subject to their powers of delegated management.
- 4.2 It is not within the remit of the Governing Body to compensate any person with monetary ward.

5. USE OF THE "FREEZE"

- 5.1 Where appropriate and practicable a 'freeze' should be imposed on the recruitment and selection procedure whilst investigations are carried out. The decision to impose such a 'freeze' will normally only occur at an early stage in the recruitment and selection procedure. The Governor dealing with the complaint should therefore consider:
 - a. The apparent seriousness of the allegation and the evidence which suggests its substantiation;
 - b. Whether a 'freeze' is practicable, having regard to action taken to fill the vacancy before the complaint was received;
 - c. The consequences to the operation of the school of the 'freezing' of the vacancy;

Advice on imposing a 'freeze' may be obtained from the Employee Relations Team.

- 5.2 If a 'freeze' is imposed the Governor dealing with the complaint will have discretion to determine the duration, subject to the extent of the investigation.

All supporting documents, refer to HR Portal.