

A new way of handling parents' complaints about school issues

**Consultation response by Consumer Focus to the Department for
children, schools and families**

November 2008

Consumer Focus
Artillery House
Artillery Row
London SW1P 1RT

t 020 7799 7900
f 020 7799 7901
e contact@consumerfocus.org.uk
www.consumerfocus.org.uk

A new way of handling parents' complaints about school issues

Consultation response by Consumer Focus

Introduction and summary

Consumer Focus campaigns for a fair deal for consumers. We do this through research and policy analysis and lobbying and by working with policy makers, providers and others who can make a difference to consumers' lives. We have a special remit to represent the interests of disadvantaged and vulnerable consumers.

Consumer Focus supports the Department for children, schools and families (DCSF) aspirations for improving the way parents' complaints are handled, and agree with the principles underlying their proposals but we would argue that they do not go far enough to achieve the stated goals of creating consistency and supporting parents and children effectively. A more far-reaching set of changes with review and reporting arrangements would go further to simplify and improve the process for schools, parents and pupils.

The system as proposed has three potential flaws. Firstly, the proposals fail to take account of the potential benefits of effective complaints systems for example in helping to develop responsive and inclusive relationships between parents, pupils and schools, or as useful management information.

Secondly, it is structured more around the needs of schools than what parents and pupils need. There is a risk that parents will still feel confused or reluctant about pursuing complaints - even if a single portal is established.

And it is at risk of missing an opportunity to bring about much greater integration between the different routes for complaints beyond the proposed portal service.

Our recommendations are listed under the individual sections used in the consultation document.

The case for change and the Department's proposals

Consumer Focus agrees that the current complaints system for schools would be improved by introducing a single route for complaints and one tier of review. We support the proposals for introducing core principles into school complaints handling, the use of mediation, and creating an independent external review body. More information and support to help parents and pupils navigate their way through the system will also be a positive development. We would, however, like to see further integration of the different channels for complaints beyond the review.

The proposals currently emphasise the need to avoid additional burdens on school staff, leaders or governing bodies more than the need to reduce the difficulties that parents and pupils face in raising issues and pursuing complaints. It is just as important to make sure the system works for them too. We would encourage the department to proactively promote the potential benefits for all parties of being open to complaints as the changes would be severely discredited if they appeared to have an inbuilt bias toward protecting the interests of the school.

The Department can be instrumental in promoting the value of receiving complaints for the performance management system in schools. Complaints data provide useful management information and an early warning system to prevent concerns escalating, and dealing effectively with complaints helps to build a responsive and inclusive relationship between schools, parents and pupils.

The proposals focus on parental complaints but should be more explicit about how schools should handle complaints from children and young people, and how they would be supported through the process. At the moment pupils are mentioned only in relation to the arrangements for external review.

Pupils should be entitled to use complaints procedures, and to give written and oral evidence to schools and governing bodies. The Department should provide guidance on what sort of procedures best enable young students to use the procedures effectively.

Recommendations

The Department (DCSF) should:

- proactively promote the potential benefits for all parties of being open to complaints
- be explicit about how schools should handle complaints from and give support to children and young people.

Handling complaints at school level

Consumer Focus strongly supports the focus on local resolution of complaints as most problems can and should be resolved by schools.

Research conducted by our colleagues in the Scottish Consumer Council (SCC), one of the Consumer Focus predecessor organisations, shows that the more detail that can be provided on principles and processes the better¹. School staff are not automatically provided with training on complaints handling and sometimes don't know even the basics.

That is why we would support mandatory arrangements for handling complaints to underline their importance for good schools management. This will not create additional burdens on schools as they should already have a complaints system in place but it would remind them of the benefits and encourage consistency across all schools. It is in the schools' best interests to ensure everyone (staff, parents and pupils) know how to make complaints and that school staff have regular training on complaint handling so that potential problems are identified and resolved at the earliest point, preventing problems from escalating and generating good relationships.

Providing core principles and guidance helps to ensure consistency across different schools. We would be in favour of extending the principles listed in the consultation document to include a specific time scale for dealing with complaints, making explicit that pupils complaints are also covered, and providing feedback on the next steps for the school, any changes to be made, and other outcomes. From experience, we know that people don't just want their own problem to be dealt with properly but feel it is just as important to stop it happening again.

Based on their extensive research into schools complaints procedures SCC published a checklist of information for parents², including issues such as defining what a complaint is, and whether complaints are monitored. The local government ombudsman's (LGO) guidance on good practice for running a complaints system includes essential principles such as making sure the process is helpful and receptive, that responsibilities are well defined, has the full support of the Head, and is sensitive to the needs of the complainant³. See annex 1 for the full list.

Recommendations

DCSF should

- Make the arrangements for handling complaints mandatory
- extend the criteria for complaints handling to include the key elements of the SCC and the LGO principles.
- ensure all staff have regular training in handling complaints.

¹ Complaints in education, SCC, 2006

² Ibid

³ Running a complaints system, Commission for local administration in England, 2002

Role of governors

As the consultation document indicates, regardless of the adequacy of the complaints procedures themselves, their efficient functioning depends on school staff and governing bodies being equipped to deal with parents' concerns and complaints. Giving the governing body responsibility for dealing with some complaints seems appropriate but will only be effective if members have the training, capacity and confidence to be able to deal with complaints in an even-handed way.

It would be helpful to specify the ways in which governing bodies should consider complaints and to set out clearly the principles of good complaint handling using the extended list of principles developed by the SCC and LGO.

Maintaining transparency and consistency will be important to the system's credibility, especially given the sensitivities for the school and individuals involved – professionals, parents and pupils. This will be especially important when using their discretion to refuse to consider complaints. They should be required to provide an explanation to the relevant parties, including pupils, and in an appropriate format that suits their needs.

Recommendations

DCSF should

- specify the ways in which governing bodies should consider complaints and to set out clearly the principles of good complaint handling using the extended list of principles developed by the SCC and LGO
- require all governors to undertake training in complaints handling.

Recording complaints

In the interests of all parties it is good practice to record complaints hearings, and will be especially useful in cases that may proceed beyond the school level. This means that clerks to governing bodies would need to be fully trained in the procedure and in how to record the meetings, as proposed.

In any case, it is good practice for schools to keep records of all complaints for management information and service improvement. It may not be necessary to record the same detail of complaints that are resolved informally but schools still need to be able to monitor issues of concern to pupils and parents.

Recommendation

Schools should be required to keep records of all complaints, not just formal hearings.

The role of mediation and support for parents and pupils

There is anecdotal evidence that mediation can be effective in areas of dispute, for example in relationship breakdown and employment disputes but Consumer Focus has not conducted research in this area. The Chartered Institute of Arbitration or the Advisory, Conciliation and Arbitration Service (ACAS) may have more information about its effectiveness and impact.

We do not see why mediation should be restricted to disputes about bullying and SEN. Mediation is a non-confrontational, non-judgemental technique for bringing parties together. It provides an opportunity for each to have an equal say, with an emphasis on getting them to agree a way forward. As a result there tends to be a high level of commitment to any resolution. On that basis mediation is less likely to engender ill feeling or damage relationships, though it will require adequate levels of training and skill. A successful mediation strategy should also reduce the barriers, emotional turmoil, and stigma attached to complaints as well as the number of complaints which are escalated.

Using an independent source of expertise would be an advantage as it distances the process from the school and the authority, enhances confidentiality and reduces the need to train school staff. Access should, however, be free at the point of use for both the school and the parent.

Parents and pupils can be easily confused or discouraged from pursuing complaints. Schools don't always make it easy, and families are often worried about the potential negative impact for children and more support for parents would complement the new approach.

Schools should provide information about access to sources of help, advice, advocacy and support, as well as the different routes for complaints. The Department should conduct its own research to find out which other sources parents would like to go for information and support, and what formats they would prefer.

Recommendation

DCSF should:

- use a free-to-access mediation service for all complaints where it would be helpful and make sure that parents, pupils and schools know it is available
- explore the use of advocacy, perhaps by making more use of effective voluntary sector organisation
- consult parents on the most effective ways of providing them with support.

Complaints that cannot be resolved at school level

Consumer Focus supports the proposal to establish a review service although we remain concerned that it will not resolve the complex structure of external review in education with various procedures serving different purposes.

Comprehensive review body

Consumer Focus supports the proposal for an independent complaints review body rather than a local referrals system which would have limited scope and may be less attractive to parents because its close relationship to authorities could compromise its independence.

The independent review body's scope should be as comprehensive as possible to maximise integration. It should:

- cover all schools, including Academies, City Technical Colleges and City Colleges for Technology of the Arts;
- cover statements of SEN, curriculum matters and worship;
- be able to consider and act on the merits of the original complaint and its handling;
- deal with complaints about staff;
- accept complaints from parents, including those with parental responsibility and other carers of children and young people, and young people themselves.

Making the service comprehensive will enable it to build up a body of independent expertise on a broad range of issues, and to establish a clear identity. The review body will also be able to develop ways of using and making public the information it gathers, sharing best practice, identifying common or systemic problems, encouraging learning and continuous improvement within the schools community.

The review body will need to ensure its decisions are communicated in an open and transparent way so that the parties have a full explanation of the process being used, especially where they exercise their discretion to dismiss or terminate an investigation. It also needs well-defined and well-publicised responsibilities; adequate resources for the job and some powers to make sure its recommendations are implemented.

The body's decisions should be regularly reviewed, possibly annually by the Department to ensure consistency and fairness, and the findings should be published, at least in summary, with due regard for confidentiality. The information on complaints should be regularly analysed to identify patterns of complaint and any lessons for service improvement.

Hosting the new body

If the review body has to be hosted within an existing organisation our first choice would be for the Office of the Schools Adjudicator because of its existing expertise, working relationships with schools and distance from local authorities. The ombudsman service does not have an

extensive regional presence so has only a limited 'geographical' advantage, and may be seen as too generic or too closely associated with local government issues.

However, we recommend asking parents directly, as the system must have credibility for them as well as for schools.

Hosting the review body within another organisation is not resource neutral and the Department will need to ensure it is well resourced with sufficient finance, and staff with the appropriate skills. It should not be treated as an add-on to an existing set of duties.

Principles and powers

The criteria for the service should specify optimum time limits, with all the criteria reviewed once the service has been operating for 12 months and modified if necessary to make sure they meet the needs of parents, young people and schools.

Giving feedback to the complainant and subject on actions taken as a result of a complaint is integral to effective complaints systems, and in the interests of public reporting and accountability. There should also be a process to see that recommendations are implemented.

Giving the Secretary of State a reserve power to ensure compliance with the service's recommendations is a useful backstop but the service itself should have sufficient authority to make sure its conclusions and recommendations are acted upon and would add to its credibility. Powers to award compensation would be an advantage in this respect.

Remedies

We strongly support the proposal for a range of remedies and would encourage the department to consider extending them to include financial compensation in cases where pupils and parents have suffered some kind of loss. There are cases where financial compensation is appropriate – for example to compensate for costs to the family, for example new uniforms or other belongings if these were damaged by bullies; cost of counselling or other support.

Recommendations

DCSF should:

- Ensure the review body has a well-publicised clear and comprehensive remit, with adequate resources, appropriate public reporting and accountability requirements, Consult parents about which options for hosting hold most credibility,
- Extend the criteria for the service to include a time limit and giving feedback to complainants, and review all criteria after an initial 12 month period
- Give the review body the means to make sure its decisions are implemented,

Links with other complaints procedures and the case for a complaints portal

The best way to achieve a streamlined service is to make it as comprehensive and consistent as is practicable, and to harmonise procedures in the different complaint avenues. From a users' perspective the current proposals do not meet the principle of 'one route for complaints and one tier for review'. This only applies if you look at general complaints in isolation from complaints to the Special Educational Needs and Disability Tribunal, the Adjudicator or Ofsted. The overall landscape for educational complaints and appeals remains confused and confusing and would require significant assistance for most parents to be able to navigate effectively.

The proposals seem to rely on the different complaints systems aligning over time to provide a seamless service for parents (as described in paragraph 79 of the consultation document) but there is no guarantee that this will happen without some intervention. Investing in a portal to help consumers navigate may deliver short-term gains but in the longer term it would be better to harmonise the different avenues for complex complaints.

The portal will be more useful if it has the facility to direct enquiries to relevant sources of advice and advocacy as well as to where to take complaints for the next stage.

Recommendations

DCSF should:

- Investigate and pursue ways of bringing the different complaints avenues into line with one another.
- Make sure the portal is linked into other advocacy and support mechanisms.

Piloting

We are not convinced of the need to pilot the arrangements before implementation because once the review body has been established; the changes are mostly about introducing best practice and streamlining existing structures.

Recommendation

DCSF should move directly to developing and implementing their proposals.

Annex

Checklist for Information for Parents on Complaints about Education

1. Is the information positive about receiving complaints from parents?
Information should outline the schools positive approach to handling complaints.
2. Does the information include a definition of what a complaint is?
Often parents are unsure whether their grievance is a complaint or if it is appropriate to use the complaints procedure.
3. Does the information include information on 'putting things right'?
Reference should be made to how problems may be rectified, to overcome parents' scepticism about being able to affect change.
4. Is the information easy to access?
The information should be available in a variety of places, and referred to in school handbooks and newsletters to ensure parents are aware of the policy.
5. Is the information easy to understand?
The information should be free of jargon.
6. Does the information guarantee confidentiality?
Parents should be assured that their complaint will be handled in confidence and that neither they, nor their child, will suffer discrimination as a result.
7. Does the information include timescales for receiving a response?
The information should include timescales for acknowledging and responding to complaints.
8. Is information included on the 'next steps'?
Parents should be informed of where to take their complaint if they remain unsatisfied. All school and education authority information should include reference to the Scottish Public Services Ombudsman (SPSO) and the provisions under the Education (Additional Support for Learning) Act 2004.
9. Is information included on how complaints are monitored?
Information should include reference to how complaints are monitored to reassure parents that staff are listening to their views.

Excerpt from Complaints in education, a research report by the Scottish Consumer Council, 2006

Annex

What are the essential qualities of a good complaints system?

A good complaints system is:

- Well publicised
- Easy to use
- Helpful and receptive
- Not adversarial
- Fair and objective
- Based on clear procedures and defined responsibilities
- Quick
- Thorough
- Rigorous
- Decisive and capable of putting things right where necessary
- Consistent
- Comprehensive, with principles and key features which apply to all departments of the council
- Sensitive to the special needs and circumstances of the complainant
- Adequately resourced
- Fully supported by councillors and leading officers
- Regularly analysed to spot patterns of complaint and lessons for service improvement

Excerpt from Running a complaints system, Guidance on good practice

Commission for Local Administration in England, 2002