



Name [REDACTED]
Email Address [REDACTED]
Date: 14 September 2023
Subject Line Your Complaint – Ref: [REDACTED]

Dear [REDACTED]

Thank you for your patience while the Department for Education's School Complaints Compliance Unit (SCCU) considered your complaint to [REDACTED]. We are sorry for the length of time it has taken us to consider your complaint and are grateful for your continued patience since you first contacted us about these matters.

Your Substantive Complaint

On 18 July 2022, you raised your complaint to the department regarding:

- issues you raised – during the complaints process – that had not been addressed, as they related to the school's proposed changes to policy
- breaches of education law in relation to the school's proposed changes to policy
- the school's attempt to remove you from the governing body.

The SCCU has carefully considered the information provided, however, we are unable to consider your complaint in full, at this time. Those aspects of your complaint that relate to the Relationships and Sex Education and Health Education (RSHE) cannot be considered until the department has clarified the guidance for schools on gender identity matters.

We acknowledge the genuine concerns about what children are being taught in regard to gender identity, and how schools are supporting pupils who identify as transgender, alongside all pupils in a school. This is why we are currently working to produce guidance to help schools deal with transgender issues and to support the teaching of this subject.

You may be aware that, following reports of inappropriate materials being used to teach relationships and sex education, the Education Secretary has brought forward an urgent review of the RSHE curriculum, which will be informed by an independent panel, who will advise her on introducing age ranges for certain subject. The department is planning to consult on an amended draft of the guidance in the autumn.

We are engaging with a range of key stakeholders to develop this guidance, including the Department of Health and Social Care and NHSE. We are also engaging with colleagues supporting Dr Hilary Cass' independent review of gender identity services, so that our guidance is aligned with policy across government to ensure children and young people get the best possible support. You can find out more about the review online at:

<https://cass.independent-review.uk/>.

This area of work is complex and sensitive, and we have concluded that it would not be appropriate to provide a full response to your complaint in relation to teaching about gender identity until the consultation outcome has been considered and the guidance has been published, as this would risk pre-empting the outcome of the stakeholder engagement and consultation process.

As outlined in our previous correspondence on 17 August 2023, we are also unable to consider the matter regarding your removal from the governing body, as this has reached a conclusion via the courts. The courts are a higher authority than the department.

Complaint Handling

What we have been able to consider is the school's adherence to its published complaints procedure. We have noted the following.

Following submission of your Stage 1 complaint of 25 January 2022, you should have received an acknowledgement, as referenced on page 5 of the school's complaints procedure. Neither you nor the school provided evidence of this, so we cannot confirm if this happened.

The Investigating Officer and Chair of Governors then met with you on 23 February 2022, to discuss your complaint. You were sent an official response on 4 March 2022. This response was issued well outside the allocated time frame for a response, of 15 school days, as documented in the complaints procedure.

We do not hold any evidence to indicate you were informed of the delay or the reasons for it, however, given the nature of the complaint, we can understand that more time may have been necessary to consider your complaint. We note that the response you received detailed a summary of recommendations that governors may undertake as a constructive way forward.

The school's complaints policy reads '*Note: The headteacher may delegate the investigation to another member of the school's senior leadership team but not the decision to be taken.*' The department has not been provided with evidence to confirm whether the Headteacher agreed with the outcome of the investigation direct, however, they were copied into the official response by the Investigating Officer.

We will remind the school that if deadlines cannot be met, they should notify complainants of the delay, the reasons for it and provide a revised timeframe for a response.

As you were dissatisfied with the Stage 1 response, on 7 March 2022, you sent a letter asking to escalate your complaint to Stage 2. This was within the two school days specified within the complaints procedure. However, as we consider this timeframe to be unreasonable, we will advise the school to extend this time limit.

We do not hold any evidence that your stage 2 complaint was acknowledged, or that the Clerk contacted you to advise when the complaint panel meeting was scheduled or that they circulated information three days in advance. In the absence of this evidence, we cannot conclude the school did not adhere to its published complaints procedure, However, we will remind them to do so.

As per the school's complaints procedure, you and the Complaints Committee met on 30 March 2022. This was slightly outside the 15 days timeframe provided for in the complaints procedure, however, the delay is not unreasonable.

On 1 April 2022, the Chair of the Complaints Committee wrote to you to confirm the decision reached by the panel. This was within the five days provided for in the complaints procedure. The panel considered whether your complaint was handled correctly at Stage 1 and concluded it was investigated correctly.

The panel also reached the following conclusions:

- *'The Investigating Officers recommendations were a reasonable and appropriate response to concerns raised in your complaint'.*
- *'A further recommendation is added from the Stage 2 panel that the [REDACTED] considers setting up a curriculum committee that meets termly providing the space to consider the finer details of key areas on the curriculum in the scope of governor monitoring'.*

Finally, the Chair of the Complaints Committee recommended you contact the Department for Education if you believed your complaint was handled unlawfully or unreasonably.

Having reviewed the information provided, we are satisfied that the school considered this complaint in accordance with their published complaints procedure, however, we have identified some recommendations to ensure they comply with the department's best practice.

Complaints Procedure

Based on the information you provided, we determined that the school has a complaints procedure in place, as required. We reviewed the procedure and determined that it is a version of the model complaints procedure published by the department. However, as described above, we noted the timeframe to escalate a complaint to Stage 2 is unreasonably short and will be writing to the school to ask them to extend this time frame.

There are no other recommendations we can make to amend their complaints procedure to bring it in line with our updated best practice guidance on complaint handling.

The School Complaints Compliance Unit's (SCCU) remit

We will clarify the SCCU's remit so you are aware of what we can and cannot do.

Under sections 496 and 497 of the Education Act 1996, the Secretary of State has powers to intervene concerning how a local authority (LA) maintained school's governing body has carried out, or is intending to carry out, its functions under certain education legislation. When the department receives a complaint about a maintained school, we consider whether these powers are available to be used. However, to consider such intervention, the Secretary of State must first be satisfied that a governing body:

- has, or is proposing to exercise a power unreasonably - (under Section 496)

- has, or is proposing to perform a duty unreasonably - (under Section 496)
- or-
- has failed to discharge a duty - (under Section 497).

The courts interpret “unreasonably” as meaning “acting in a way that no reasonable governing body would have acted or proposed to act.” Where the Secretary of State is satisfied these criteria have been established, and where they feel that it is necessary or practical to do so, they may issue a direction to ensure that the relevant power or duty is exercised or performed reasonably, or that a duty is discharged.

The SCCU acts on behalf of the Secretary of State in reviewing how schools have dealt with complaints in terms of their adherence to educational legislation and their own policies and procedures.

However, schools and their governing bodies are responsible for resolving the outcome of complaints. We are generally unable to consider the basis of a school complaint or provide an alternative option for complaints to be resolved outside of the school’s own complaints procedure. Action taken by us, where appropriate, typically involves explaining the legislative framework and what it means in practice at the school level or recommending improvements to statutory school policies.

We appreciate that you will be disappointed by the lack of consideration of the substantive aspect of your complaint, however, we trust you understand why we cannot consider it in full, at this time.

When we are able to review this aspect of your complaint, we will write to you again.

Yours sincerely


Case Manager
School Complaints Compliance Unit