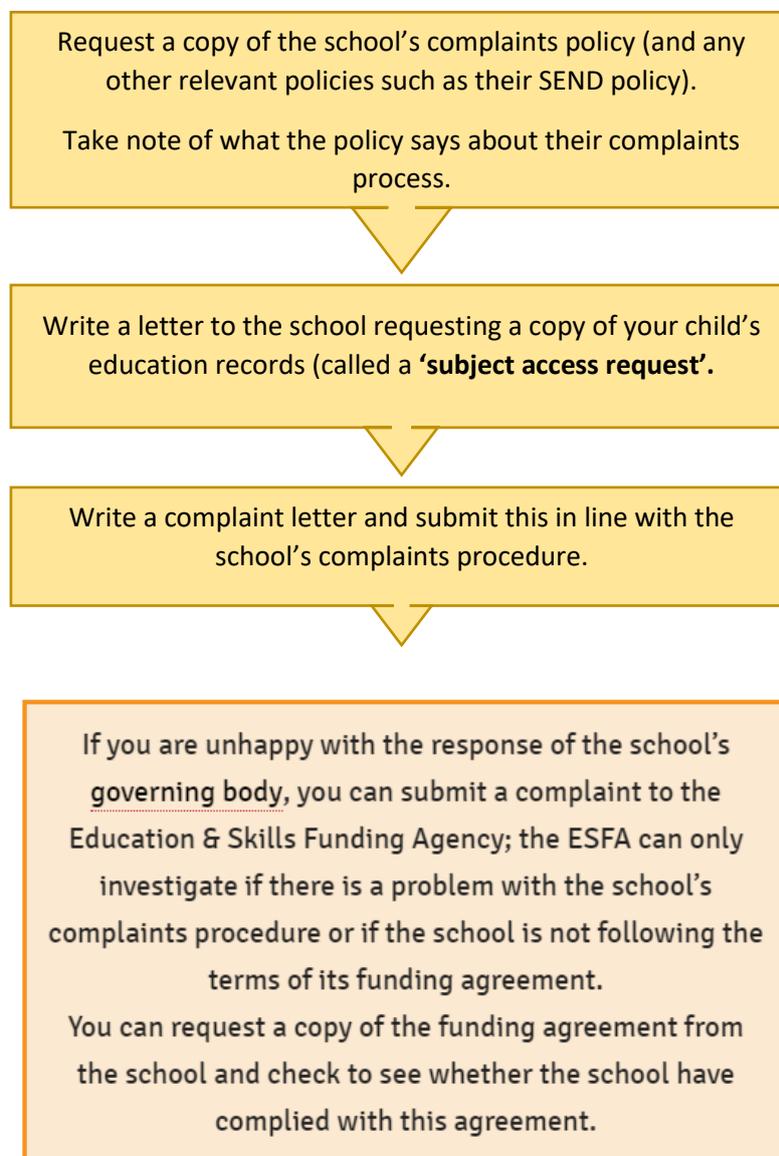


## Complaints to Academy Schools:

The following information is taken from the Education & Skills Funding Agency (EFSA) advice on [‘procedure for dealing with complaints about academies’](#).

The EFSA is under an obligation to ensure that Academies stick to their contract with them, which is called an ‘Education Funding Agreement.’

Academies **must** have a written complaints procedure, which is available on request to parents. The EFSA recommends that academies publish this online and make it available to anyone who requests it.



### How do I make a complaint to an Academy?

If you are a parent of a pupil at the Academy, the complaints procedure must comply with [The Education \(Independent School Standards\) Regulations 2014, Schedule 1, Part 7](#).

The complaints process should have 3 stages:

1. **Informal Stage** – usually an informal meeting between complainant and staff.
2. **Formal Stage** – complaint is submitted in writing to the school.
3. **A Panel Hearing** – if the matter proceeds to a Panel Hearing, the school must allow the complainant to attend that hearing (and be accompanied if they wish) and have at least one independent panel member (independent of the management and running of the Academy).

If the complaint is from someone other than a pupil's parent, the Academy can handle this complaint differently to above.



It is a good idea to ask the academy for a **subject access request**.

You can find a template letter to do this at the end of this factsheet.

### Can I make a complaint about teacher misconduct?

You can report serious professional misconduct of a teacher to the [Teaching Regulation Agency](#) (TRA). The TRA will only look into cases where the misconduct could result in that teacher being disqualified; this could include, for example:

- unacceptable professional conduct;
- conduct that may bring the profession into disrepute; or

- conviction of an offence such as sex, violence, terrorism, hate crime, fraud, theft, possession or supply of drugs.

The TRA cannot look into complaints about a teacher's performance or competence.

Under the [Teachers' Disciplinary \(England\) Regulations 2012](#), the TRA can only look into allegations against teachers who are, or have ever been, employed or engaged to carry out teaching work at:

- a school in England;
- a sixth form college in England;
- relevant youth accommodation in England;
- a children's home in England; or
- a 16 to 19 Academy;



and when employed in these settings have been engaged in:

- planning and preparing lessons and courses for pupils;
- delivering lessons to pupils;
- assessing the development, progress and attainment of pupils; and
- reporting on the development, progress and attainment of pupils.
- The TRA cannot usually consider allegations against teaching assistants, higher level teaching assistants or other support staff not engaged in unsupervised teaching activities.

To make a complaint to TRA you must have tried all local complaints procedures including contacting the school's head teacher and/or chair of governors and contacting the Local Authority.

To make this complaint you should use the [teacher misconduct referral form](#) and include:

- details of the allegations;
- chronology of events including any previous complaints made;
- documents as evidence of previous complaints, correspondence with the school, the school complaint policy, any complaints to the police, any complaints to other bodies such as the local authority and signed witness statements.

### [What if I am unhappy with the Academy's response to my complaint?](#)

If you are dissatisfied with the academy's response, you should then address your complaint to the ESFA. The ESFA will not usually investigate complaints more than 12 months after the decision or action was taken.

Matters which the *ESFA will* investigate:

- Undue delay on non-compliance with published complaints procedures;
- Allegations that the academy has acted unlawfully or failed to comply with a contractual duty imposed on it under its Funding Agreement with the Secretary of State or any other legal obligation.

Matters which the *EFA will not* investigate:

- Examination results or curriculum content, where a more appropriate form of redress would be the examining body or [Ofqual](#);
- Statements of special educational needs, where there is an appeal to the [First-Tier Tribunal \(Special Educational Needs & Disability\)](#);
- Matters that are subject of legal action;
- Criminal matters – this should be referred to the police;
- Safeguarding and child protection matters – refer this to the Academy’s Local Safeguarding Board;
- Discrimination – raise with the [Equality Advisory Support Service](#);
- Data protection issues – direct this to the [Information Commissioner’s Office](#).

[Click here](#) for the online portal to make a complaint about an academy to the EFSA (select the ‘complaint’ option).

### What are the outcomes after contacting the EFSA?

If the ESFA finds that the Academy has not dealt with a complaint properly, they will not overturn the Academy’s decision but will ask it to reconsider and ensure that the decision complies with the relevant Regulations.

Such actions may include asking the Academy to review:

- its procedures, to ensure non-recurrence;
- its decision in the individual case.



If the Academy does not comply, the Secretary of State may, if appropriate, seek to enforce the terms of the Funding Agreement through the courts.

### When can I complain to the Secretary of State?

Before you can complain to the Secretary of State, you must have exhausted all of the above procedures.

The Secretary of State will consider the following types of complaint:

- failure of a school and/or Local Authority to address bullying;
- failure of a school and/or Local Authority to safeguard and promote a pupil's welfare in accordance with [section 175 Education Act 2002](#);



To start the procedure, you will need to write a letter detailing your complaint with all relevant documentation to the Department of Education.

The following are grounds of Complaints to the Secretary of State:

- A complaint can be made that the school or Local Authority has failed to make adequate arrangements to safeguard and promote the welfare of a child under [section 175 Education Act 2002](#);
- A complaint can be made against the Local Authority or Governing Body of any maintained school that has acted unreasonably with respect to the exercise of any power or the performance of any duty imposed by the Education Act 1996 ([section 496 Education Act 1996](#)).
- A complaint can be made against the LA or Governing Body of any maintained school if it has failed to discharge any duty imposed on them by or for the purposes of the Education Act 1996 ([s.497 Education Act 1996](#))
- A complaint can be made against a LA that has failed to perform to an adequate standard and function conferred on it in its capacity as a LA ([s.497 Education Act 1996](#)).

It is worth noting that the Secretary of State can take 6 months to respond to letters of complaint and very rarely finds it necessary to become involved.

The Secretary of State can make directions as they consider appropriate to ensure that the Governing Body or Local Authority exercises its duties, functions and powers as it should.

**Ofsted:**

You may want to consider making a complaint to Ofsted. It may be one way of redress, and in the very least will inform their next inspection.

[Click here](#) to access their online complaints portal.



**Subject Access Request – Template Letter:**

[Your full address]  
[Phone number]  
[The date]

[Name and address of the school]

**Subject access request:**

[Your full name and address and any other details to help identify your child and the data you want.]

Dear Sir or Madam,

Please supply the data that I am entitled to under data protection law relating to: [give specific details of the data you want, for example]

- Your child's academic achievements
- Details of any assessments carried out with your child between certain dates (say from 1 Sept 2018 to 1 April 2019)
- Details of any special educational needs support provided.

If you need any more data from me, or a fee, please let me know as soon as possible. It may be helpful for you to know that data protection law requires you to respond to a request for data within 40 calendar days.

If you do not normally deal with these requests, please pass this letter to your relevant staff member. If you need advice on dealing with this request, the Information Commissioner's Office can assist you. Their website is [ico.org.uk](http://ico.org.uk) or they can be contacted on 0303 123 1113.

Yours faithfully

[Signature]

[Where can I get more information, advice and support?](#)

Contact SENDiass4BCP for more information, advice and support on making complaints against an academy.

Office: 01202 451970 (Bournemouth and Christchurch area)

01202 261933 (Poole area)

Email: [sendiass@bcpcouncil.gov.uk](mailto:sendiass@bcpcouncil.gov.uk)

