



## Education/School Complaints

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Our team have put together a list of online resources for parents and carers who are considering a complaint in relation to their child's education. Please note that we do not usually advise on complaints, and this information is provided purely as a resource.

- **Speak with the school** – if parents have concerns about their child's education the first step recommended on the Government's guidance - <https://www.gov.uk/complain-about-school/state-schools> - is to raise this with the school directly, with the aim that this will work to resolving the issue without the matter needing to be escalated.
- **School complaints** – each school in England must have its own complaints procedure, usually on its website. If speaking with the school has not addressed the concern, then the next step set out is the right to complain. Schools' complaints procedures need to be followed through fully, unless there are exceptional circumstances, before escalating the matter to the Department for Education (DfE).
- **DfE** – the DfE can only get involved in relation to a school complaint either, a) if the school is preventing a parent from following its complaints procedure, or b) when a parent feels they have gone through the school's complaints procedure fully - [https://form.education.gov.uk/service/Contact the Department for Education](https://form.education.gov.uk/service/Contact%20the%20Department%20for%20Education)

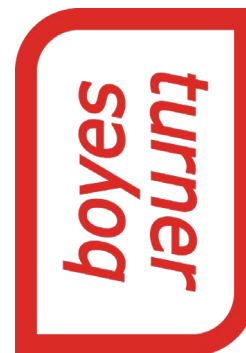
The DfE cannot investigate individual complaints about private schools, but can still enforce its powers as a regulator if there are concerns about the school failing to meet its regulatory standards, e.g. for education, pupil welfare and health and safety, and school premises - <https://www.gov.uk/complain-about-school/private-schools>

The Education and Skills Funding Agency (ESFA) on behalf of the Secretary of State, handles complaints concerning academies that have also gone through the relevant school's complaints procedure, unless exceptional circumstances apply.

- **Ofsted** – Ofsted cannot consider individual complaints about state-maintained schools or academies, but there are a limited range of issues whereby Ofsted can consider general/whole-school information, or a problem, if a school's complaints procedure has already been followed, and the complaint has already been brought to the attention of the DfE (Secretary of State) - <https://contact.ofsted.gov.uk/online-complaints-schools>

Ofsted may be able to then consider complaints in relation to - [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/387342/Complaints to Ofsted about schools.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/387342/Complaints_to_Ofsted_about_schools.pdf) - :

- the school not providing a good enough education;



- the pupils not achieving as much as they should, or their different needs are not being met;
- the school is not well-led and managed, or is inappropriately managing finances, or;
- as a group, the pupils' personal development and well-being are being neglected.

Depending on Ofsted's review of a complaint, next steps could include -

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/387342/Complaints\\_to\\_Ofsted\\_about\\_schools.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/387342/Complaints_to_Ofsted_about_schools.pdf) - :

- no further action;
- referral to the complaint at the school's next inspection;
- concerns brought to the attention of social services or the police;
- inspection of the school earlier than planned, or;
- immediate school inspection.

Ofsted is unable to consider complaints where there are other legal avenues to address the issue, e.g. concerning school admissions, support for pupils with special educational needs (SEN) and exclusions. Ofsted is also unable to consider complaints in respect of independent schools or provision for post-16 pupils.

- **Local Government Ombudsman (LGO)** – is an independent organisation that provides parents and carers with a free service to raise complaints against local authorities on a number of issues, including education - <https://www.lgo.org.uk/contact-us> and [https://complaints.lgo.org.uk/?fm\\_fid=81](https://complaints.lgo.org.uk/?fm_fid=81) - once a local authority's internal complaints procedure has been followed.

The LGO cannot investigate complaints about academies, but can potentially consider complaints about exclusions and/or admissions if a school has recently converted to an academy.

The LGO can potentially investigate the following types of education/school related concerns - <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education> - :

- Exclusions – <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/exclusion-from-school> - the LGO can potentially consider complaints where parents feel the independent review of their child's exclusion was not properly conducted, and if the school in question is a:
  - community;
  - foundation;
  - voluntary controlled, or;
  - voluntary aided school.
- Infant class size appeals – <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/infant-class-size-appeals> - if an infant class size (reception, year 1, year 2) appeal is unsuccessful (both via the admissions authority and independent appeal panel) and parents believe the authority or panel acted incorrectly then the LGO



can potentially investigate. If a complaint concerns refusal of a nursery school place then parents can go straight to the LGO following the outcome of their request to the admissions authority.

- School transport – <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/school-transport> - situations where a complaint has gone through the local authority's own 'Home to School Travel and Transport Review/Appeals' process first, and:
  - parents' concerns regarding their complaint is felt to have not been handled correctly, or;
  - parents were not provided help from the local authority, or;
  - there was a mistake.
- Delayed entry for summer-born children – <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/complaints-about-delayed-entry-for-summer-born-children> - instances where a request is made for a 'summer-born' child to start school the September following their fifth birthday that is refused and an admission authority's process has been followed. The LGO can then potentially consider parents' concerns about whether the admission authority:
  - followed its published process;
  - took into account parent's reasons for asking for delayed entry;
  - decided what year it would be in the child's best interest to start school into;
  - decided the child's best interests were to start at compulsory school age into year one, and if it properly considered the potential impact of admission to year one without first having completed reception;
  - consulted with the head teachers of parent's preferred schools;
  - has explained its decision.
- Education other than at school – <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/education-other-than-at-school> - instances where a child is unable to attend school, e.g. through illness and the local authority is not providing appropriate support. Also, instances where home education is being provided and parents have concerns that the local authority has:
  - breached government guidance, or its own policies in checking the educational provision they are making for their child, or;
  - not responded appropriately to any requests made for guidance about home education.
- SEN – <https://www.lgo.org.uk/make-a-complaint/fact-sheets/education/special-educational-needs> - including complaints regarding Education, Health and Care Plans (EHCPs) that cannot otherwise be addressed through another legal avenue, such as an appeal to the Special Educational Needs and Disability (SEND) Tribunal. The LGO can investigate complaints where a local authority:
  - has delayed in issuing a decision following an Annual Review;
  - has delayed in completing the EHCP process within the statutory 20 weeks;



- is not delivering the Section F provision in the final EHCP;
- has not implemented the SEND Tribunal's recommendation for respective social care provision Section H of an EHCP, following an appeal, under the National Pilot scheme (currently running until 31 August 2021).
- Admissions – <https://www.lgo.org.uk/make-a-complaint/factsheets/education/school-admissions> - if an admission appeal was not successful in parents' favour for a particular school and who believe:
  - this was due to an error;
  - the appeal was handled incorrectly, or;
  - if an appeal hearing has not been arranged within a reasonable time.

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**\*ALL INFORMATION CORRECT AS OF THE DATE OF PUBLICATION (09 MARCH 2021)\***

If you have any questions or require advice, please contact the Special Educational Needs team on **0118 467 6547** or [senexpertsolicitors@boyesturner.com](mailto:senexpertsolicitors@boyesturner.com). Appeals to the Tribunal can be extremely difficult and expert advice should always be considered.

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