



# Complaint Procedure

## 2024

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Designated Safeguarding Lead  
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### POLICY REVISION RECORD (annual reviews)

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11/04/2019			Jo Clark
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## **Introduction:**

Berkeley Guardians is committed to creating and sustaining a family-centred guardian agency and our priority is for the young people that are within our care.

Our objective is to provide a secure, calm, and welcoming environment for young people and staff (including host families). We recognise that these aspirations can only be achieved by the wholehearted commitment and support of the whole of Berkeley Guardians' family. Occasionally, situations will occur which prevent the fulfilment of those aims and give cause for complaint.

To bring any such occurrences to a speedy and satisfactory conclusion, Berkeley Guardians has adopted a Complaints Procedure. This procedure is based on the guidance from the Department for Education (DoE) 2020 - Best Practice Advice for School Complaints Procedures.

It is important that complaints are raised at the earliest possible opportunity to enable the matter to be dealt with speedily and effectively. An early informal approach is often the best means of resolution of minor problems. The DoE expect complaints to be made at the earliest opportunity and consider 3 months to be an acceptable timeframe to lodge a complaint.

### **Points for consideration when using this procedure :**

- A complaint is an expression of dissatisfaction however made, by a parent/carer, young person, agent or host family with a legitimate interest in Berkeley Guardians. It may be about Berkeley Guardians policies or procedures, the conduct, actions (or omissions of) or the standards of care towards our pupils
- The procedure must be publicised to parents, pupils, agents, host families and the procedure must be readily available to anyone requesting a copy
- This procedure is not for complaints from staff about matters relating to their duties or employment at Berkeley Guardians, or for staff grievances, or for complaints they may have about parents/carers. Those issues should be dealt with through other Berkeley Guardians policies and procedures
- This complaints procedure is intended to be used by those persons who have a complaint relating to Berkeley Guardians and no other alternative process exists for addressing that complaint
- Where an appeal mechanism or legislative process takes precedence, then that procedure must be followed and the procedure outlined below in section 3 will not apply. Examples of where alternative measures would take precedence may include (but are not limited to) some of the following:
  - Issues relating to members of staff including disciplinary grievances and re-organisation proposals
  - Matters likely to require a Child Protection Investigation
  - Whistleblowing

Initially most complaints will be oral. There should not be a requirement for the complainant to put their complaint in writing at the informal stage. However, Berkeley Guardians should be mindful that English may not be the complainant's first language and due consideration and appropriate action should be taken where this is known to be the case. Such actions may include for example agreeing to the parent being accompanied by a friend or family member to act as interpreter.

Berkeley Guardians will keep a record of all complaints made and the actions taken. When receiving anonymous complaints in most cases the only action the Director(s) will take is to log the complaint and a record of any actions taking in response to the complaint. However, there may be exceptions to this where the Director(s) feels further action should be taken and it is for the Director(s) to use their discretion in making that decision and in deciding how to proceed in such cases. These may include complaints that raise serious concerns such as child protection allegations or bullying.

There may be some instances, for example when the complaint is about one of the Directors where it would be appropriate for the complainant to be advised to write to the other Director.

The power to investigate Berkeley Guardians complaints rests with Berkeley Guardians. The main exceptions to this are child protection where the Local Authority does still have the powers to investigate and intervene.

It is important that all concerns are taken seriously. Children learn best when there is an effective partnership between Berkeley Guardians and the parents, agent and host family. All members of Berkeley Guardians are entitled to have their points of view properly considered and heard.

It is very important that all complaints are dealt with as swiftly and as fairly as possible. Failure to address complaints promptly frequently results in greater dissatisfaction. Complaints and concerns relating to issues, which occurred more than three months before will generally be ruled "out of time".

A Director should not investigate when a complaint is about their own actions.

When investigating a complaint the investigator should try to establish what happened, discover what the complainant feels would remedy the situation and interview those involved, keeping notes of the interviews. It may be appropriate to have another person present to take notes on occasions. Berkeley Guardians should consider using recording devices to so parents/carer with communication difficulties can access and review discussions.

Berkeley Guardians note that complainants have a right of the copies or records under the Freedom Of Information Act 2000 and the Data Protection Act 2018. Details of the complaint should not be shared with all staff members.

### **Complaints procedure:**

#### **Stage One: - Local resolution of the problem (the informal stage):**

- In the vast majority of cases a problem can, and should, be resolved by contacting the member of staff/host family member directly involved with the problem
- The initial communication with the member of staff/host family member may be by letter, telephone conversation or in person by appointment
- Where this action does not lead to the problem being resolved then the complaint should be dealt with through the formal stages of this procedure

## **Stage Two – The Formal Stage:**

- If the complainant is not satisfied with the response from the member of staff/host family member at stage 1 or if the complaint is of a serious nature, the complainant should be advised that the next stage is to put their complaint in writing to the Director(s)
- When writing to the Director(s) the complainant should seek to include details that might assist the investigation, such as witnesses, dates and times of events and copies of relevant documents
- The Director(s) will be responsible for carrying out an investigation or appointing another senior member of staff to carry out the investigation and report their findings to the Director(s) who will then reach a conclusion based on the investigation
- The person appointed as the Investigator should keep notes of any interviews held as part of the investigation
- In order to clarify the specific details of the complaint, the nature of the complaint and any background to the complaint, the investigator may feel it necessary to meet with the complainant first.
- It is good practice to supply interviewees with the notes and ask them to sign the notes for accuracy
- At the conclusion of the investigation the investigator will compile a report detailing their findings and any recommendations or actions they propose need to be considered by the Director(s)
- The Director(s) should write to the complainant within 5 working days of receipt of their letter, setting out who is conducting the investigation and that the Director(s) will write again to the complainant within a further 20 working days setting out the actions taken to investigate the complaint and their findings. However, the investigation period for a more complex complaint could be longer than 20 days. The complainant should be advised if this is the case
- Before the investigator interviews a member/s of staff/host family member, they must be informed that they can be accompanied by a colleague or representative of a recognised union or professional association
- Once satisfied that the investigation has been concluded and a decision on the complaint has been reached the Director(s) will notify the complainant in writing of the conclusion and decision made. The complainant will be informed of any action that will be taken as a result of the complaint except where this would be a breach of confidentiality e.g. taking any formal action against individual members of staff which would remain confidential
- This letter of notification of the outcome should generally be done no later than 20 working days. The Director(s) may feel it appropriate to meet with the complainant to communicate the findings in person; in this event the decision should also be confirmed in writing

### **The outcome of the investigation would usually be one of the following but not limited to:**

- The evidence indicates that the complaint was substantiated and therefore upheld

- The complaint was substantiated in part and the part upheld and identified only is upheld
- There is insufficient evidence to reach a conclusion, so the complaint is inconclusive and not proven
- The complaint is not substantiated by the evidence and therefore not upheld

In the outcome letter the complainant will also be informed that if they are not satisfied with the outcome of the investigation, they may request that the other Director reviews the process followed by the Director in handling the complaint.

The complainant must be advised in writing of exactly who to contact and the timescale by which they should make contact, should they wish to pursue the matter to the Complaint Review.

This request must be made in writing to the other Director within 10 working days of receiving the outcome from the first Director investigating and must include a statement specifying reasons for the request for the review and any perceived failures arising from the outcome of the investigation.

### **Where the complaint is about the actions of one of the Directors:**

#### **Stage One - Local resolution of the problem (the informal stage):**

In the vast majority of cases a problem can and should be resolved by speaking to the Director directly in an effort to resolve the problem or concern. The initial communication with the Director may be by letter, telephone conversation, in person or by appointment. Where this action does not lead to the problem being resolved then the complaint should be dealt with through the formal stage of this procedure.

#### **Stage Two – the formal stage:**

- If the complainant is not satisfied with the response from the Director at stage 1 they should be advised that the next stage is to put their complaint in writing to the other Director
- The other Director will be responsible for carrying out an investigation who will then reach a conclusion based on the investigation. Notes should be kept of any interviews held as part of the investigation. To clarify the specific details of the complaint, the nature of the complaint and any background to the complaint the investigating Director may feel it necessary to meet with the complainant. The investigating Director should produce notes of this interview
- At the conclusion of their investigation the investigating Director will compile a report detailing their findings and any recommendations or actions they propose need to be considered by the Director(s)
- When writing the initial letter to the investigating Director the complainant should seek to include details that might assist the investigation, such as witnesses, dates and times of events and copies of relevant documents
- The investigating Director should write to the complainant within 5 working days of receipt of their letter, setting out who is conducting the investigation and that they will write to the complainant within a further 20 working days setting out the actions taken to investigate the complaint and their findings However, the investigation period for a

more complex complaint could be longer than 20 days. The complainant should be advised if this is the case

- Before the investigating Director interviews a member/s of staff/host family member, they must be informed that they may be accompanied by a colleague or representative of a recognised union or professional association.
- Once satisfied that the investigation has been concluded and they have reached a decision on the complaint the investigating Director will notify the complainant in writing of their conclusions and any actions that will be taken as a result of the complaint (except where this would involve taking any formal action against individual members of staff which would remain confidential)
- This should be done no later than 20 working days. The Director may feel it appropriate to meet with the complainant to communicate their findings

The outcome of the investigation would usually be one of the following but not limited to:

- The evidence indicates that the complaint was substantiated and therefore upheld
- The complaint was substantiated in part or in full (some details would be given of the actions Berkeley Guardians will take in response to the complaint except where they may be of a disciplinary or other such nature relating to an individual member of staff/host family)
- There is insufficient evidence to reach a conclusion so the complaint is inconclusive
- The complaint is not substantiated by the evidence and therefore not upheld
- At this stage the complainant will be told that consideration of the complaint by the investigating Director is now concluded. The complainant will also be informed that if they are not satisfied with the manner in which the process has been followed, they may request that the other Director to review the complaint and the process followed by the Director in handling the complaint
- The complainant must be advised in writing of exactly who to contact and the timescale by which they should make contact, should they wish to pursue the matter to stage 3 – the Complaints Review
- This request must be made in writing to the Director in charge of the review within 10 working days of receiving the outcome from the investigating Director and must include a statement specifying reasons for the request for the review and any perceived failures arising from the investigation process followed.

### Stage Three – The Director Review (All Complaints):

- The Director Review is convened at the request of a complainant to review the investigating Director decision to a complaint at stage 2. If the complaint has not been settled at the formal stage and the person making the complaint is not satisfied with the outcome or the way it was dealt with, they can ask for the process to be reviewed by the other Director
- The Director Review purpose, in each case, is to review (not to re-investigate) the original complaint and Berkeley Guardians response to it, including its investigation and the outcome. The Director Review role is not to undertake a re-investigation of the case, nor to extend its reference beyond the above matters
- The role of the stage 3 Director Review is to review the actions and supporting evidence of the stage 2 investigation. The Director Review is not permitted to do the following:
  - To re-investigate the complaint
  - To reach a definite view on a point of law
  - To criticise the complainant for any “contributory negligence” that may have contributed to the difficulties
  - To be an alternative to a disciplinary hearing, as far as staff are concerned
  - To hear any new complaints (except if it relates to the length of time taken to deal with the substantive complaint)

The review will normally be conducted through a consideration of written evidence but any requests received to make an oral representation should be considered sympathetically.

The Director will consider the letter from the complainant and if needed request that the complainant submit in writing (within a reasonable timescale) any further information needed by them relating to their reasons for requesting a review and any perceived failures arising from the investigation process followed. The investigating Director will be invited to make a written response to the complainant’s submissions.

The investigating Director who made the initial decision should provide the Director implementing the review with all records, notes or information considered during the investigation (unless prevented from doing so for reasons such as data protection).

The Director implementing the review should communicate its findings to the complainant and other Director within 25 working days of receipt of the complainant’s letter requesting a review.

If the complainant is not happy with the response from the Directors’ Review they should contact ***The Association for the Education and Guardianship of International Students (Aegis)*** on **+44(0)1453821293** or email [info@aegisuk.net](mailto:info@aegisuk.net)

### Dealing with unreasonable, serial or persistent complaints:

Berkeley Guardians is committed to dealing with all complaints fairly and impartially, and to providing a high-quality service to those who complain. We will not normally limit the contact complainants have with Berkeley Guardians. However, we do not expect our staff/host family members to tolerate unacceptable behaviour and will take action to protect staff/host family members from that behaviour, including that which is abusive, offensive, or threatening.

Berkeley Guardians defines unreasonable complainants as *'those who, because of the frequency or nature of their contacts with Berkeley Guardians, hinder our consideration of their or other people's complaints'*.

**A complaint may be regarded as unreasonable when the person making the complaint:**

- refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance
- refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- refuses to accept that certain issues are not within the scope of a complaints procedure
- insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice
- introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales
- makes unjustified complaints about staff/host family members who are trying to deal with the issues, and seeks to have them replaced
- changes the basis of the complaint as the investigation proceeds
- repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed)
- refuses to accept the findings of the investigation into that complaint where Berkeley Guardians complaint procedure has been fully and properly implemented and completed
- seeks an unrealistic outcome
- makes excessive demands on Berkeley Guardians time by frequent, lengthy, complicated and stressful contact with staff/host family members regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with

A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone or in writing or electronically:-

- maliciously
- aggressively
- using threats, intimidation or violence
- using abusive, offensive or discriminatory language
- knowing it to be false
- using falsified information
- publishing unacceptable information in a variety of media such as in social media websites and newspapers

Complainants should limit the numbers of communications with Berkeley Guardians while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached. Whenever possible, the Director will discuss any concerns with the complainant informally before applying an 'unreasonable' marking against the complaint.

If the behaviour continues the Director(s) will write to the complainant explaining that their behaviour is unreasonable and asking them to change it. For complainants who excessively



contact Berkeley Guardians causing a significant level of disruption, we may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after 6 months.

In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police informed. This may include barring an individual from Berkeley Guardians' services.

## APPENDIX

### Appendix A – Roles and Responsibilities

#### The Complainant

The complainant or person who makes the complaint will receive a more effective response to the complaint if he/she:

- co-operates with Berkeley Guardians in seeking a solution to the complaint
- expresses the complaint in full as early as possible
- responds promptly to requests for information or meetings or in agreeing the details of the complaint
- asks for assistance as needed
- treats all those involved in the complaint with respect

#### The Complaints Co-ordinator (or Director)

The complaints co-ordinator should:

- ensure that the complainant is fully updated at each stage of the procedure
- ensure that all people involved in the complaint procedure will be aware of the legislation around complaints including the Equality Act 2010, Data Protection Act 2018 and Freedom of Information Act 2000
- liaise with staff members, Director(s), host family members to ensure the smooth running of the complaints procedure
- keep records
- be aware of issues regarding sharing third party information
- additional support - this may be needed by complainants when making a complaint including interpretation support

#### The Investigator

The Investigator is the person involved in Stages 1 and 2 of the procedure. The Investigator's role can include:

- providing a comprehensive, open, transparent and fair consideration of the complaint through:-
- sensitive and thorough interviewing of the complainant to establish what has happened and who has been involved
- consideration of records and other relevant information
- interviewing staff, host family members, young people and any other people relevant to the complaint
- analysing information
- effectively liaising with the complainant and the complaints co-ordinator as appropriate to clarify what the complainant feels would put things right
- identifying solutions and recommending courses of action to resolve problems

- being mindful of the timescales to respond; and responding to the complainant in plain and clear language
- The person investigating the complaint should make sure that they conduct interviews with an open mind and be prepared to persist in the questioning
- keep notes of interviews or arrange for an independent note taker to record minutes of the meeting

### **Complaints Coordinator (could also be the investigator)**

This is the contact point for the complainant and is expected to:

- set the date, time and venue of any meetings, ensuring that the dates are convenient to all parties and that the venue and proceedings are accessible
- collate any written material and send it to the parties in advance of the meeting
- meet and welcome the parties as they arrive for the meeting
- record the proceedings
- circulate the minutes of the meeting
- notify all parties of the Director(s) decision
- liaise with the complaints investigator (if different to the co-ordinator).

### **The Chair (to the meeting)**

The Chair has a key role in ensuring that:

- the meeting is minuted
- the remit of the participants at the meeting is explained to the complainant and both they and Berkeley Guardians have the opportunity of putting their case without undue interruption
- the issues are addressed
- key findings of fact are made
- parents/carers, host family members, young person and any others who may not be used to speaking at such a meeting are put at ease – this is particularly important if the complainant is a young person
- the meeting is conducted in an informal manner with everyone treated with respect and courtesy
- the layout of the room will set the tone – care is needed to ensure the setting is informal and not adversarial
- the Chair holding the meeting is open-minded and acts independently
- no member of the meeting has an external interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure
- both the complainant and Berkeley Guardians are given the opportunity to state their case and seek clarity
- written material is seen by everyone in attendance – if a new issue arises it would be useful to give everyone the opportunity to consider and comment upon it; this may require a short adjournment of the meeting
- liaise with the investigator and complaints co-ordinator

### **Member of Directors Review**

- it is important that the review is independent and impartial, and that it is seen to be so
- no Director may be at the review meeting if they have had a prior involvement in the complaint or in the circumstances surrounding it
- the aim of the review meeting, which will be held in private, will always be to resolve the complaint and achieve reconciliation between Berkeley Guardians and the complainant

- However, it must be recognised that the complainant might not be satisfied with the outcome if the review does not find in their favour. It may only be possible to establish the facts and make recommendations which will satisfy the complainant that his or her complaint has been taken seriously
- many complainants will feel nervous and inhibited in a formal setting
- Parents/carers often feel emotional when discussing an issue that affects their child.
- The Chair will ensure that the proceedings are as welcoming as possible
- Extra care needs to be taken when the complainant is a young person and present during all or part of the meeting
- Careful consideration of the atmosphere and proceedings will ensure that the young person does not feel intimidated. Those present at the meeting should respect the views of the young person and give them equal consideration to those of adults.
- If the young person is the complainant, the investigator should ask in advance if any support is needed to help them present their complaint. Where the young person's parent/carer is the complainant, the investigator should give the parent/carer the opportunity to say which parts of the meeting, if any, the young person needs to attend
- The parent/carer should be advised however that agreement might not always be possible if the parent/carer wishes the young person to attend a part of the meeting which the investigator considers not to be in the welfare of the young person which is paramount

### **Interviewing Best Practice Tips**

#### **Young people**

Young people should be interviewed in the presence of another member of staff, or in the case of serious complaints (e.g. where the possibility of criminal investigation exists) in the presence of their parents/carers. However, it might not always be possible to conduct an interview in case it prejudices a LADO or police.

#### **Investigation**

Care should be taken in these circumstances not to create an intimidating atmosphere. Young people should be told what the interview is about and that they can have someone with them.

#### **Staff/Host Family/ Witnesses**

- Explain the complaint and your role clearly to the interviewee and confirm that they understand the complaints procedure and their role in it
- Staff are allowed a colleague to support them at their interview. The colleague must not be anyone likely to be interviewed themselves
- Use open, not leading question
- Do not express opinions in words or attitude
- Ask single not multiple questions, i.e. one question at a time
- Try to separate 'hearsay' evidence from fact by asking interviewees how they know a particular fact
- Persist with questions if necessary. Do not be afraid to ask the same question twice.
- Make notes of each answer given
- Deal with conflicting evidence by seeking corroborative evidence. If this is not available, discuss with the complaints co-ordinator/ Director(s) the option of a meeting between the conflicting witnesses

- Make a formal record of the interview from the written notes as soon as possible while the memory is fresh. Show the interviewee the formal record, ask if s/he has anything to add, and to sign the record as accurate

## **Appendix B – Complaint Form**

The person who experienced the problem should normally fill in this form. If you are making a complaint on behalf of someone else, please fill in Section B. Please note that before taking forward the complaint we will need to be satisfied that you have the authority to act on behalf of the person concerned. If you are a pupil; your Guardian or School will help you complete this form, will explain it to you and will give you a copy of it when it is completed.

### **A. Your details**

Title: Mr / Mrs / Ms / Other:

Forname(s):

Surname:

Address:

Contact phone Number:

Email Address:

What method of contact would you prefer?

### **B. If you are making a complaint on behalf of someone else, what are their details?**

Their name in full:

Address:

What is your relationship to them?:

Why are you making a complaint on their behalf?:

**C. About your complaint**

Name the Guardian, host family member or staff member to which this complaint refers:

Please explain the details of the complaint below (use extra space as required):

Describe how you have been affected:

When did you first become aware of the problem?

If it is more than three months since you first became aware of the problem, please give the reason why you have not complained before:

What do you think should be done to put matters right?

Have you already put your complaint to a member of staff? If so, please give brief details about how and when you did so:

Signature of complainant:

Date:

Signature if you are making a complaint on behalf of someone else

Signature:

Date:

**Please send this form and any documents to support your complaint to one of the Directors of Berkeley Guardians**

**OFFICIAL BERKELEY GUARDIANS USE**

Date acknowledgement sent:

By whom:

Complaint referred to:

Position:

Date: