

## SMB COLLEGE GROUP POLICY / PROCEDURE FOR:

# *Handling and Resolving Complaints*

<b>Review Cycle</b>	Annual	
<b>Policy / Procedure Owner</b> <small>*Owner has overall responsibility for this document</small>	George Caplan	
<b>Responsible Department</b>	Quality	
<b>Responsible Person</b> <small>(if different to Policy / Procedure Owner) *This person has responsibility for maintaining document, communicating changes and staff training where appropriate</small>	George Caplan	
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### **Equality, Diversity and Inclusion Statement**

This Handling and Resolving Complaints policy has been developed and reviewed in line with the Equality Act (2010) which recognised the following categories of individual as protected characteristics:

Age, Gender Reassignment, Marriage and Civil Partnership, Pregnancy and Maternity, Race, Religion and Belief, Sex (gender), Sexual Orientation and Disability.

This document will be continuously monitored to ensure that it allows equal access and does not discriminate against any individual or groups of people.

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## 1. Purpose

The SMB Group will have a fair, non-biased and robust process for dealing with complaints. Where the complaint relates to Higher Education, the SMB Group have a transparent approach to signposting students to the Office of the Independent Adjudicator (OIA) at the appropriate time.

This document outlines the process to be followed where there has been a failure to maintain the high standards set at SMB Group Colleges, of a nature which has prompted a person (or people) to make a complaint. It details how that complaint will be investigated and the actions to be undertaken where a complaint is found justified or non-justified.

## 2. Scope

To be eligible for consideration under this process the complaint must be raised in a timely manner (within 20 working days of becoming aware of the issue). For final year Higher Education students, complaints must be raised by the date of the Graduation event, regardless of attendance, or within 3 calendar months of the identification of the issue, depending on which is the longest. Complaints received outside of this deadline will be considered under this procedure at the college's discretion. Any student or member of staff who is the subject of action under any other college process (e.g. the Grievance, Disciplinary Policy/Code or Student Code of Conduct) cannot in addition invoke the complaints procedure, other than about the process itself. This process will also be made accessible to members of the public where appropriate.

The SMB Group would not typically accept a complaint from a third party such as a friend or extended family member.

A complaint relating to an employment matter by a student who is also an employee would be dealt with under the relevant Human Resources Policy and Procedure (Dispute Resolution and Grievance Procedure). Complaints against students will be dealt with via the Student Disciplinary Code by the relevant Section Manager. Concerns about a member of staff or student relating to bullying or harassment can be considered under the College's Harassment Procedure. Some issues may more appropriately be considered under alternative processes. For example, but not exclusively:

- Academic Appeals - for concerns about a decision in relation to academic progress, assessment, judgement or award
- Disciplinary (Student or staff) processes – for concerns relating to conduct along with other HR processes

**\*Note:** For those under 18, where a complaint has been raised on their behalf, we may not be able to respond without the direct positive consent from the young person concerned, unless they are deemed to be unable to raise the complaint themselves for a clearly defined reason. The college will always act reasonably.

*Higher education degree programmes undertaken through the University of East Anglia, De Montfort University or The University of Derby as a validating partner operate as follows:*

*University of East Anglia: UEA Partner Institution Academic Appeals and Academic Complaints Regulations*

*De Montfort University: SMB Group Complaints Policy*

*The University of Derby: SMB Group Complaints Policy*

### 3. Dealing with Complaints – Actions and Responsibilities

The effectiveness of this procedure will be enhanced by incorporating the following principles:

- the right of an employee to know the allegation(s) being made against them
- the right of all parties to be heard
- the right of all parties to be treated fairly
- the right of all parties to have access to an investigator and who acts fairly and in good faith
- the right that a decision is based on sound evidence or the balance of probabilities

Issues raised may not fall neatly into the category of a complaint. Where this happens, the matter will be considered by Assistant Principal of Quality and Learner Experience.

The complainant may request that their concerns are dealt with confidentially. In these situations we will act reasonably, there may be some situations where confidentiality is not possible depending on the nature of the concerns, where this is the case it will always be discussed with the complainant initially.

Group complaints will normally be allowed where the issue has affected several people. In this situation to effectively manage this the group will be asked to nominate one member as a representative. SMB Group staff will normally deal with the nominated representative of the group and in turn it is expected that they will liaise with the group members. Where this happens, then the outcomes of any investigation may differ depending on the experience and impact on the individuals concerned.

The process for dealing with complaints is typically divided into three stages:

**Stage 1 – Early Resolution**, in which an attempt is made to quickly resolve the matter by an Investigatory Officer usually being the CQL, Manager and/or HCQ of the area of which the complaint concerns, unless the complaint is against those individuals. All complaints typically should have Stage 1 attempted unless otherwise directed by the Assistant Principal of Quality and Learner Services. Stage 1 outcomes will be discussed in Executive meetings.

**Stage 2 – Formal Investigation and Resolution**, which involves an investigation by an authorised senior member of staff. This stage is led by an appointed Investigating Manager (IM), normally at Director

Level. Once the IM has concluded their investigation the Executive Team will review and approve the outcome, based on whether it is reasonable and proportionate to the initial concerns raised.

**Stage 3 – Appeal/Review** – Where the complainant remains unsatisfied with the outcome of Stage 2 and has requested a review. One of the Executive Team will lead the Appeal.

**Note:** Complaints may be prioritised or fast-tracked through the stages outlined above. This decision may be influenced by the following factors;

- Professional, regulatory body requirements or time frames for a decision
- The potential that an existing condition (physical or mental) may be exasperated by protracting the process any longer than necessary

### Stage 1: Early Resolution

Stage 1 seeks to resolve straightforward concerns swiftly and effectively, at the point at which a complaint is made, or as close to that point as possible, at CQL, Manager or HCQ level. **The procedure strongly encourages the investigating officer to phone the complainant as an initial start of the investigation.**

The Early Resolution stage should be resolved in a timely manner (typically no longer **than 10 working days** from the point that the complaint is logged).

In a situation where a conclusion has not been reached within 10 working days then the matter will be automatically escalated, by the Quality Unit, to an authorised senior member of staff and progress the complaint to Stage 2 for investigation and resolution.

The Early Resolution stage will be concluded in writing to the complainant by the member of staff who managed Stage 1 (email is acceptable confirmation). **An outcome paper will be provided to the Executive Team and Attached to the online system.**

The complainant will be informed of their right to request that their complaint is progressed to Stage 2, should they be dissatisfied with the outcome of Stage 1, and the deadline for doing so (**within 10 working days**).

### Stage 2: Formal Stage

Where a complainant is dissatisfied with the Stage 1 outcome and wishes to request a formal investigation the complainant should complete the online complaint form stating they request a stage 2.

The request should outline the grounds for their complaint and refer to any supporting evidence. It should give an account of attempts at resolution made under Stage 1 and explain why they believe the outcome of Stage 1 is unsatisfactory.

The request will be acknowledged within five working days and the complainant will be informed that their complaint has been assigned to an Investigating Manager (IM) (Director level) who will review the matters raised and ultimately report directly back to the complainant and quality unit **within 20 working days from receipt of the stage 2 request**. Where there is a need to extend this deadline, within reason, then it is the responsibility of the IM to communicate this to the complainant.

The IM may wish to meet with the complainant to gain a deeper understanding of the case. Minutes/notes of any meeting will be taken either by the IM or a third party arranged by the IM. The IM may determine the need to speak to other parties, staff members or review further materials.

The IM will need to determine whether the complaint is:

1. Trivial, vexatious or malicious
2. Without substance and requires dismissing.
3. With substance and requiring remedy, mediation, procedural change or potential financial redress (this may require Principal approval). A combination of these is likely.

**Prior to conclusion, the matter at this stage should be subjected to The Executive Team to determine that the outcome is proportional and reasonable determined by the information provided by the IM, and to approve or reject the proposed outcome.** The conclusions of this element should be within 5 working days of the IM concluding their investigation.

The IM is then required to send an outcome letter to the complainant. With any outcome the letter/email will inform the complainant of their right to appeal/request review (under Stage 3 of this Procedure), the grounds on which they may do so and the time limit for doing so (15 working days from the Stage 2 outcome being communicated to them).

Stage 2 will normally be completed within 25 working days, including the Executive Review element, because of the nature of the investigation required.

### **Stage 3 (Appeal/Review)**

Stage 3 will not normally consider issues afresh or involve further investigation. A complaint must have been considered at the Stage 2 before it can be escalated to Stage 3.

The grounds for which a complainant may appeal/request a further review are:

- There was a procedural irregularity at this or the previous stage
- Outcome reasons have not been effectively communicated or are perceived by the complainant to be unreasonable.
- New evidence is now available which was not available upon reasonable enquiry or application at the time of the investigation during the formal stage

To appeal to stage 3 the complainant will need to complete the online complaint form again making it clear it is an appeal, within 10 working days of the outcome of stage 2 being communicated to them. The complainant must clearly explain the grounds for their appeal and where necessary, provide evidence. A request submitted outside the appeal deadline may be considered at the discretion of the Principal.

#### **Stage 3, Part 1, Principal's Review.**

The Principal may dismiss an Appeal by writing to the complainant within five working days, if it is deemed to be outside of the grounds identified above or timeframe (within 10 working days of the stage 2 outcome being communicated to them). In such cases, a Completion of Procedures (CoP) letter will be issued, along with the response from the Principal.

If the Principal considers the complainants' Appeal to be well founded, this will then progress to Part 2 (Stage 3).

### Stage 3, Part 2.

The Principal will allocate a Case Manager (CM) from the Executive Team, or a suitably experienced senior member of staff (independent). Critically the CM will have had no previous direct involvement with the case. **The Principal will respond to the complainant within five working days**, detailing the process for the Review Stage and confirming the identity and contact details of the CM. It is expected at this point that the CM will determine whether a panel is required based on the information received.

**The CM will review the information provided and may conduct a further investigation to conclude within 15 working days of the Principal's decision being communicated to the complainant.** This may lead to an outcome that overturns the decision made at Stage 2 or suggest alternate remedies. In normal circumstances, where the CM considers the Appeal without forming a Review Panel, the complainant will be issued with a letter/ report from the CM detailing the final decision. Where a complaint is upheld, information will be provided on how and when the College will implement any remedies where appropriate and whether this includes an apology.

If the complainant relates to Higher Education and the complainant remains dissatisfied, they can pursue the matter through the procedures of the Office of the Independent Adjudicator. Details may be found on the OIA website <http://www.oiahe.org.uk> or later in this document.

If a panel meeting is required, a panel meeting must be convened within 25 working days of the appointment of the CM. The complainant will be asked in advance to provide a brief synopsis of their case should they wish to and any further evidence / witness statements (including names and contact details for verification) if necessary. The panel meeting will be made up of independent Case Officers.

Staff members in which the complaint is linked to have the right to present their case at panel meetings also. The Panel will have access to all previous documentation in connection with the complaint. In addition, both parties' synopsis of their case, and any additional witness statements, will be made available to all parties at least five working days before the hearing. The Panel may wish to request the presence of a witnesses in person at the meeting and be able to question them.

No new evidence may be introduced in the summing up. The Panel may refuse to hear evidence that it deems irrelevant. It has the power to adjourn the hearing to another date and to summon additional witnesses if it thinks it would be appropriate to do so to pursue its investigation and reach a conclusion. If the complainant chooses not to attend the meeting a decision will be made on the evidence available to the panel.

The Panel (including the CM) will reach a decision in private. The CM will consider the feasibility and proportionality of any recommended action as part of the decision making. For higher education complainants consideration should be given to the 'Distress and Inconvenience bands' issued by the OIA (available from the quality unit). Where necessary the CM may seek approval from the Principal (or another member of the Senior Management Team if the Principal is not available) on the outcome.

If the Panel decides that the appeal should be upheld, it may make any recommendations which it sees fit to the Faculty or Programme Area. It may reject the appeal if it finds that it was unfounded or that the Faculty or Programme Area had responded appropriately at an earlier stage. If the members of the Panel cannot agree, the verdict will be that of a simple majority of its members.

Following the hearing, the CM will write a short report of the hearing which will be approved by members of the panel. The report will set out the grounds for the complaint, provide a summary of the evidence received, and record the decision of the Panel with any recommendations. The report will be prepared and agreed within five working days of the meeting. The complainant will be sent a copy of the report of the Review Panel, along with a letter from the CM detailing the final decision and any remedy which will be taken if appropriate; this takes place within 10 working days of the meeting.

A copy of this correspondence will also be sent to the member of the Senior Management Team responsible for the Faculty or Programme Area concerned. The outcome of the Review stage represents the final stage of the College's internal procedures. The complainant will be issued with a Completion of Procedures (CoP) letter, within 15 working days of the conclusion of the Review.

If the complainant is a higher education student and they remain dissatisfied, they can pursue the matter through the procedures of the Office of the Independent Adjudicator. Details may be found on the OIA website <http://www.oiahe.org.uk> or from:

OIA Second Floor  
Abbey Gate  
57-75 Kings Road  
Reading  
RG1 3AB

## 4. Further information and Guidance

### Staff complaints

Where a member of staff (or a group of staff) is the primary subject of a complaint, then the respective line manager shall meet with the identified member of staff indicating that they have been named in a complaint together with the following information:

- date complaint was made
- nature of the complaint (i.e. necessary detail)
- who has been appointed as the Investigating Manager
- when were they appointed
- their role, and likely interaction with the member of staff
- what will happen to the outcomes of the investigation
- the mechanism by which the named member(s) of staff may respond to the complaint (including via interviews with the Investigating Manager)

If you are writing to a staff member regarding a complaint about them or are informing them face to face then the following information is really useful to include: I do appreciate that this may be a difficult time for you. If you are in a trade union I would encourage you to contact them as they have experience of this type of situation and can provide appropriate support, alternatively, you can contact the HR team should this be necessary. For complaints received specifically citing the Clerk to the Corporation,



the Principal, a named member of the Corporation, or the Chair of the Corporation, the following actions will overrule the stated action on the flow diagram.

- Complaints against the Clerk - The investigating officer will be the Principal. Any appeal will be heard by the Chair of Governors.
- Complaints against a Governor (other than the Principal/Chief Executive) - The investigating officer will be the Clerk to the Corporation. Any appeal will be heard by the Chair of Governors
- Complaints against the Chair of Governors - The investigating officers will be the Principal and the Vice Chair of Governors. Any appeal will be heard by a panel of three Governors selected by the Clerk (excluding the Vice Chair and the Principal and any other governor previously involved in the process)
- Complaints by the Vice Chair against the Chair of Governors - The investigating officer will be the Principal and a member of the board selected by the Clerk (excluding the Chair, Vice Chair, Principal and any other Governors previously involved in the process)
- Complaints against the Principal - The investigating officers will be the Chair and Vice Chair of Governors. Any appeal will be heard by a panel of three Governors selected by the Clerk (excluding the Chair, Vice Chair and any other Governors previously involved in the process) Whistle-blowing

The Clerk to the Corporation shall ensure the Whistle-blowing procedure is reviewed by the Audit Committee at least every two years. The clerk will ensure appropriate action is undertaken when the Whistle-blowing procedure is activated.

### Evidence Details

This may include medical evidence, such as letters confirming attendance or treatment at a GP or hospital or counselling service, reports by professionals such as psychologists or disability advisers, police crime numbers in the case of reported incidents, financial information such as evidence of loss of income (where relevant to the complaint) bank statements or receipts or statements of witnesses to incidents where it is safe and helpful to provide these. Such evidence will be managed in a confidential and sensitive manner. Should there be a requirement for such information to be shared with another member of staff within the institution, the complainant will be informed of this requirement and invited to give their consent. Complainants must be aware that all information and evidence will be passed to the Quality Unit and may also be seen by members identified in the investigation.

Order of Proceedings for Review Panel in Stage 3:

The order of proceedings shall normally be as follows:

- Introduction of those present
- Outline of the purpose of the review hearing
- Reference to information provided by complainant and Faculty/Programme Area

- Reference to synopsis summarising the main points of their case by complainant and Faculty or Programme Area
- Presentation of not more than 15 minutes by complainant or representative
- Opportunity to question complainant and witnesses by Panel and Faculty/Programme Area
- Faculty or Programme Area presentation of not more than 15 minutes
- Opportunity to question Faculty or Programme Area representative and witnesses by Panel and complainant
- Complainant's or representative's summing up (maximum 5 minutes)
- Faculty or Programme Area's summing up (maximum 5 minutes).

## 5. Definitions

**Complaint** - An expression of dissatisfaction by a person (or people) about the action or lack of action, or standard of service provided by the SMB Group or on behalf of the group

**Complainant(s)** - A person(s) who has expressed dissatisfaction in relation to an action, or lack of action, relating to a standard of service provided by or on behalf of the SMB Group

**Higher Education student** - A person who is enrolled on any Higher Education course delivered by The SMB Group (any programme at Level 4 or above, including Apprenticeships. A higher education course is a course of any description mentioned in Schedule 6 to the Education Reform Act 1988 and which also meets the academic standards as they are described in the Framework for Higher Education Qualifications (FHEQ) for England, Wales and Northern Ireland at Level 4 or higher. This will include Higher Technical and Apprenticeships.

**Harassment** - Harassment is the unreasonable pursuit of actions as in (a) to (d) above in such a way that they;

- a) appear to be targeted over a significant period on one or more members of college staff and/or b) cause ongoing distress to individual member(s) of staff and/or c) have a significant adverse effect on the whole/parts of the college and/or d) are pursued aggressively

**Persistent/Frivolous/ Vexatious/ Malicious Complaints** - A persistent complainant is any person who complains about issues, either formally or informally, or frequently raises issues that the complainant considers to be within the remit of the college and whose behaviour is unreasonable. A vexatious or malicious complaint is defined as a complaint which patently cannot be substantiated, or which has been made to defame the name and character of another person. Examples of a frivolous and vexatious complaints include:

- Complaints or academic appeals which are obsessive, harassing or repetitive
- Insistence on pursuing non-meritorious complaints or academic appeals and/or unreasonable outcomes
- Insistence on pursuing meritorious complaints in an unreasonable manner
- Complaints which are designed to cause disruption or annoyance
- Demands for redress which lack any serious purpose or value

Actions or behaviour that fall into any of the categories defined above, or any other harassing or persistently unreasonable behaviour, may render an individual liable to become subject to this procedure.

**Investigating Manager** - A member of college senior staff who will investigate the complaint under stage 2 of this procedure.

**Representative/supporter** - An identified individual(s) who has permission from the supporter complainant to accompany them to meetings. In some cases, these may be entitled to respond on behalf of the complainant or request a brief adjournment.

**Independent Reviewer** - At stage 2 this individual, independent of the complaint, will review the evidence and evaluate the outcome to ensure it is both reasonable and proportionate. This will typically come from a member of the college executive team. The Independent Reviewer will be appointed by the Quality co-ordinator.

**Case Manager** - A senior member of college staff appointed by the principal to undertake the review at stage 3.

**Case Officer** - A member of college senior staff who will assist the Case Manager, and where necessary the Panel, in managing Stage 3 of this procedure.