

CORNWALL COUNTY COUNCIL

COMPLAINTS PROCEDURE (CURRICULUM AND RELIGIOUS WORSHIP)

1. INTRODUCTION

1.1 This document sets out the arrangements for the Cornwall County Council in respect of complaints about curriculum and collective worship under the terms of section 23 of the Education Reform Act 1988. Cornwall County Council is the local education authority (the L.E.A.).

1.2 The arrangements relate to the kinds of complaint mentioned in paragraph 7 below. The arrangements have been drawn up following consultation with the heads and governors of the schools mentioned in paragraph 6 below. The arrangements have also been approved by the Secretary of State.

1.3 The purpose of the document is to set out how complaints will be handled. It describes how anyone with a complaint can set about having the complaint dealt with and what then happens.

1.4 The arrangements cover complaints made by parents and others in respect of the performance of duties or exercise of powers by the L.E.A. or by the governing bodies of schools maintained by the L.E.A.

1.5 This document should be available for inspection at all schools maintained by the L.E.A., by public libraries and education offices. A copy will be given, if desired, and without charge, to any person wishing to make a complaint under these arrangements and the L.E.A. will provide a copy of the information in languages other than English, if the complainant does not understand English, if requested to do so. A summary of the policy should be contained in the school prospectus of each school.

2. SCOPE OF THE ARRANGEMENTS

2.1 The schools covered by these arrangements are all schools maintained by the L.E.A. except:

- nursery schools
- nursery classes in primary schools
- or special schools established in a hospital.

2.2 The duties to be covered by the complaints arrangements (which are, except where noted, common to all LEA.s and governing bodies) are specified in the Education Reform Act as:

2.2.1 the provision of a curriculum, including religious education and worship, which meets the general requirements of Sections 1 and 2 of the Act;

2.2.2 the implementation of the National Curriculum and compliance with Orders and Regulations made about its requirements and exceptions to its provision (Sections 4, 10 and 17);

2.2.3 provision to pupils of compulsory school age of courses leading to an external qualification, only if that qualification and the associated syllabus or syllabus criteria have been approved (Section 5);

2.2.4 provision of religious education and worship as required by the Act and other enactments (Sections 6 - 10 and 12);

2.2.5 in the case of an L.E.A., establishment. of a Standing Advisory Council on Religious Education (S.A.C.R.E.) and review of the agreed syllabus for the area if the S.A.C.R.E. so required (Section 11);

2.2.6 the need to act reasonably in deciding whether or not to be associated with an application for exemption from all or part of the National Curriculum in order to carry out developmental work (Section 16);

2.2.7 in the case of a governing body, consideration of appeals by parents about the temporary withdrawal of pupils from part or all of the provisions of the National Curriculum (Section 19);

2.2.8 operation of charging policies in relation to the curriculum (Section 109).

2.2.9 compliance with regulations about the provision of information (Section 22); and

2.2.10 compliance with any other enactments relating to the curriculum.

Any matters not covered by the definitions set out above (e.g. discipline, admissions) do not come within the scope of these arrangements.

2.3 Complaints under these arrangements are concerned only with the actions of governing bodies and the L.E.A. Complaints about the education provided for pupils are to be considered as complaints about the exercise of the governing body,Äôs responsibilities in respect of the school curriculum.

The arrangements do not cover complaints about the actions of individual teachers or the headteacher. If, in the course of their consideration of a complaint, the governing body or the L.E.A. conclude that disciplinary proceedings should be initiated they will take separate action as appropriate.

2.4 Where there is provision for a statutory appeals procedure in respect of any particular kind of complaint that statutory procedure must be exhausted before a complaint may be considered under the arrangements in this document. If a statutory procedure allows for final appeal to the Secretary of State (as for appeals against the

special education provision specified in a Statement of Special Educational Need) then such a complaint cannot fall within the scope of these arrangements. If a statutory procedure stops with an appeal to the governing body (as with appeals about the temporary withdrawal of pupils from part or all of the National Curriculum) further complaints may be made to the L.E.A. under these arrangements.

3. GENERAL PRINCIPLES

3.1 All complaints will be dealt with as quickly and efficiently as possible. The length of the period will vary with the gravity and complexity of the complaint and the urgency with which it needs to be settled. However, the intention is that all complaints should be settled within a period which is reasonable in all the circumstances.

3.2 Urgent complaints will be identified as such and given priority.

3.3 All complaints will be investigated fully, fairly and carefully, and complainants will be kept informed of progress during, as well as at the end of each stage.

3.4 The main aim at all stages will be to secure that either the complaint is settled or that a decision is taken about the complaint and it can then, if required, proceed to the next stage.

4. STAGES

The arrangements define three levels at which a complaint could be considered. These are the informal level, the formal complaint to the governing body of a school, and the formal complaint to the L.E.A. A complaint could be considered at more than one of these stages.

4.1 PRELIMINARY DISCUSSION

4.1.1 Many complaints or potential complaints can best be resolved locally in discussion with the head or other staff of the school or in other informal discussion. This is where the process should start and unless there are exceptional circumstances there should be full discussion at the informal stage as a first step. Those with complaints will normally be advised to seek to resolve them through informal discussion before embarking on the formal stage.

4.1.2 Similarly in respect of complaints or potential complaints about actions of the L.E.A. the informal stage would involve discussion with appropriate officers of the L.E.A.

4.2 FORMAL COMPLAINT TO THE GOVERNING BODY

4.2.1 If attempts to settle the complaint informally have failed, the headteacher will supply the complainant with the name of the Designated Officer in the L.E.A., and with copies of relevant documents explaining the arrangements for considering complaints. The Designated Officer is the Principal Education Officer (School Support).

4.2.2 The complainant should set out the complaint in writing and may submit it either to the clerk of the governing body, whose address is available at the school, or to the Designated Officer in the L.E.A. This written notification should make clear exactly what the complaint is and should also make it clear that it is to be formally considered under these arrangements.

4.2.3 If the complaint is submitted to the Designated Officer he will acknowledge receipt of it and, if the appropriate level for dealing with the complaint is that of the governing body, refer it to the clerk of the governing body. If the complaint is submitted to the clerk of the governing body, the clerk will promptly acknowledge receipt of the complaint, will advise the Designated Officer that a formal complaint has been received, and will then arrange for the complaint to be investigated and to be considered by the governing body under the arrangements specified by the L.E.A. for this purpose (see Appendix A). The clerk will identify any urgent cases which need to be considered as a priority.

4.2.4 The complainant may wish to make an oral presentation to supplement the written complaint. This will be allowed. The purpose of this presentation will be to enable the complainant to bring out more fully the nature and detail of the complaint so as to enable the investigation to proceed. The purpose is not to enable a response to the complaint to be made at that stage.

4.2.5 At any interview in connection with the complaint the complainant may be accompanied, if desired, by a friend, representative or interpreter.

4.2.6 When the complaint has been fully investigated and considered the clerk will notify the complainant and the L.E.A. Designated Officer of the outcome in writing giving an explanation of the conclusion, the reasons for it, and any action taken or proposed to be taken, including details of any request made to those complained against to take particular action to resolve the complaint and the further recourse available if appropriate. This notification brings the complaint to the governing body to a conclusion.

4.3 FORMAL COMPLAINT TO THE L.E.A

4.3.1 This formal stage will be used if either:

- (a) the complainant has complained formally to the governing body, is not satisfied with the outcome, and wishes to complain to the L.E.A.; or
- (b) the complaint relates to something which is solely the responsibility of the L.E.A. and a complaint to the governors would therefore not be appropriate. (N.B.: see paragraph 2.4: if a statutory appeals procedure has been followed but the appellant is dissatisfied with the decision of the governing body, a formal complaint may be made to the L.E.A.)

It should be noted, however, in connection with (a) that the L.E.A. has no power to inspect the provision or influence the content of denominational religious education or collective worship in an aided school. Within the overall arrangements for the consideration of complaints there is a distinct procedure for considering complaints about religious education and collective worship in aided schools. This procedure has been agreed with the governing bodies concerned, and an explanatory note is attached (see Appendix B).

4.3.2 The complainant should set out the complaint in writing and send it to the Designated Officer. This written notification should make clear exactly what the complaint is and should also make it clear that it is to be formally considered under these arrangements. The Designated Officer will promptly acknowledge receipt of the complaint.

4.3.3 The Designated Officer will identify urgent complaints and arrange for them to be dealt with as a priority.

4.3.4 The Designated Officer will arrange for the complaint to be investigated and the investigating officer will seek such information or advice as he or she considers appropriate in so doing. For example, the S.A.C.R.E. will be asked for advice where a complaint relates to religious education given in accordance with an agreed syllabus or to religious worship in county schools. A member of the S.A.C.R.E. will sit on the appeals panel with the elected members.

4.3.5 Following investigation the complaint will be considered by a panel set up under the terms of the Education Act 1980 (see Appendix C).

4.3.6 The complainant may, if desired, make an oral presentation to the panel. At any such meeting the complainant, if desired, may be accompanied by a friend, representative or interpreter. A representative of the

governing body (if stage 2 has been followed) may make an oral presentation if the governing body so wishes.

4.3.7 When the complaint has been fully investigated and considered the Designated Officer will notify the complainant of the outcome in writing. He will give an explanation of the conclusion and the reasons for it, along with any action taken or proposed to be taken. He will include details of any request made to those complained against to take particular actions to resolve the complaint, and the further recourse available if appropriate. This notification brings the complaint to the L.E.A. to a conclusion.

5. THE HANDLING OF FORMAL COMPLAINTS

5.1 The Designated Officer is responsible for ensuring that the complaint has been directed correctly to the L.E.A. or the governing body as the case may be. Where necessary it will be redirected and the complainant informed that this has been done.

An example of a complaint made to the governing body which would need to be redirected to the L.E.A. is a complaint about the duty to set up a standing advisory council on religious education.

The principal example of a complaint made to the L.E.A. which would need to be redirected to the governing body would be one which is not a complaint which would properly come first to the L.E.A. and where the complainant has not yet followed the stage of a formal complaint to the governing body.

5.2 The Designated Officer or clerk to the governing body will consider whether a complaint does not come within the scope of the procedure or is related to something which has already been recently investigated and dealt with. If the latter applies, it may be that the complainant will be satisfied by a written explanation, and will decide not to take the matter further.

If the complaint is outside the scope of these arrangements the complainant will be advised about any appropriate steps which he or she could take.

5.3 Depending on the nature of the complaint it may be clear that the investigation will take some time, and, if so, the complainant will be informed that this is so.

5.4 Consideration of a complaint will need to be directed towards establishing whether the L.E.A., or the governors as the case may be, are acting

reasonably and within the law and meeting their obligations so far as practicable or whether this is not the case and some remedial action is required. In considering that question it may be necessary to consider whether:

- (a) the L.E.A., 'governors,' policy is consistent with legal requirements;
- (b) - their actions are consistent with their policy;
- (c) the actions of staff are consistent with their policy.

6. THE ROLE OF THE SECRETARY OF STATE

6.1 The Education Reform Act 1988 lays down that the Secretary of State may not consider any complaint within the scope of these arrangements unless it has first been considered under the L.E.A., 's arrangements for handling complaints. The intention of this provision is that complaints should, if possible, be dealt with and resolved between the complainant and the parties responsible - the L.E.A. and/or the governing body.

6.2 A complainant who is still dissatisfied after these arrangements have been exhausted will be able to complain to the Secretary of State.

7. MONITORING

7.1 The L.E.A. will monitor the number and nature of complaints made under these arrangements. -

7.2 Monitoring will be undertaken in respect of the formal stages. Complaints dealt with solely under the informal stage will not be monitored. This is because there is in the normal course of events considerable discussion between parents and the school about various aspects of school life including matters within the scope of these arrangements. This may embrace enquiries seeking explanation, critical and informed discussion of policy or practice and so on. This is wholly welcome and it would be unnecessarily restrictive to seek to regulate those contacts by seeking to define what amounts, or does not amount, to a complaint, or by singling out those aspects which concern the subject matter of these arrangements.

7.3 Formal complaints will, however, be monitored. The L.E.A. will maintain a record of complaints and schools similarly are expected to maintain a record of complaints made to the governing body. Schools will be asked to make a return each year to the L.E.A., and governing bodies will be expected to receive a report at least once a year.

7.4 The record of complaints will include the number and nature of complaints, the time taken to deal with them and the outcome.

7.5 Information may be published from time to time about the number and nature of complaints under these arrangements. Publication will not include reference to any named individual.

7.6 The Education Committee will receive reports as necessary, and the L.E.A. will make a return to the Secretary of State as requested.

8. CONCLUSION

8.1 This document is intended to promote good- practice in the handling of complaints within its scope and to assist complainants.

8.2 If complainants are in any doubt about where to direct their complaint they should write to the Designated Officer who will then make the necessary arrangements or advise the complainant about what steps to take. This summary of the County policy on complaints about the curriculum is for the information and guidance of headteachers, governors, appeals panel members and those making a complaint about the curriculum under the provisions of the Education Reform Act, 1988 and DES Circular 1/89.

APPENDIX A

Arrangements for Handling Complaints about the Curriculum

Governing bodies should decide on whether the whole body or a sub-committee should hear complaints.

The first stage in handling any complaint should be for informal discussions to take place at school level to establish whether the complaint can be satisfactorily resolved there. The headteacher should arrange for the complainant to be seen, normally by himself/herself or by a senior colleague, for discussion of the complaint, involving in this process whichever staff are most appropriate.

2. If the complaint cannot be resolved at school level the complainant may formally register the complaint with the governing body, or with the Designated Officer.* If this is the intention of the complainant he/she should be referred to the clerk to the governors who will make the necessary arrangements after consultation with the Designated Officer. The Designated Officer will ask the appropriate adviser to act during the review of the complaint in accordance with the procedures set out in the County policy.

* The Designated Officer is the Principal Education Officer (School Support), County Hall, Truro TR1 3AY.

3. If, after consultation with the Designated Officer, it becomes apparent that the complaint should be dealt with in the first instance by the L.E.A., the complainant will be so advised and the Designated, Officer will make the necessary arrangements for dealing with it.

4. Where a complaint is to be handled by the governors, the clerk to the governors will ensure that papers are prepared and the complainant advised of his/her right to appear before the governors in person and with a „friend,“ if desired. The complainant should submit the complaint, and the headteacher the response, in writing. These papers will be prepared for the governors by the clerk to the governors in advance of the meeting.

It should be emphasised that the hearing of a complaint is not in the nature of a „trial, in which there are „innocent, or „guilty, parties. Rather, it is a structured opportunity to resolve a perceived problem in the best interests of the sound education of the pupil/s of the school.

By definition a complainant is aggrieved about something. The complaint should be investigated fairly and honestly with a view to explaining the situation to the satisfaction of the complainant to an extent that has not proved possible before, or establishing that the complaint is warranted or concluding that it is unfounded.

5. The following stages should be followed when the governors hear the complaint:

5.1 The governors will give the complainant the opportunity to add orally to the written evidence.

5.2 The governors may ask any questions they wish of the complainant.

5.3 The complainant will withdraw.

5.4 The governors and the headteacher will consider the matter, hearing from the headteacher if they wish, in oral extension of his/her written submission. They may ask questions of the headteacher.

5.5 The governors will discuss the complaint and reach a conclusion.

For this part of the procedure the governors may, if they wish, ask the headteacher to withdraw.

6. Having considered the written submissions and any oral submissions the governors should reach a decision on the complaint and the clerk to the governors should then advise the complainant, headteacher and Designated Officer in writing within 14 days of the decision, and of any subsequent action which will be taken in response to the complaint.

The complainant should be advised of his/her right to appeal to the L.E.A. against the decision of the governing body.

7. The complainant may appeal to the L.E.A. against the decision of the governing body, by writing to the Designated Officer.

The Designated Officer will make the necessary administrative arrangements for the appeal, by preparing papers based on the original written submissions of the complainant and the headteacher. He will also include any further written submission by the complainant and the written report from the clerk to the governors of the hearing of the complaint by the governors.

8. An appeals panel of elected County Councillors and lay members (as detailed in Appendix C) will consider the papers submitted by the Designated Officer. The complainant, with a „friend,“ if desired, may appear in person before the panel to make an oral submission. The headteacher, and any appropriate professional colleague and a representative of the governing body may appear in person before the panel to make an oral submission.

Where the appeal concerns religious education in a county school the complaint will be referred initially to the county S.A.C.R.E. for their advice and a member of

the S.A.C.R.E. will sit on the panel with the elected members.

9. Advisers may be asked to give impartial expert advice to a governing body or County appeals panel hearing a complaint and this may be presented in person or in writing, depending on what seems appropriate or convenient in each case.

Advisers will be able to offer confidential advice to headteachers about complaints and how they should be responded to in the first instance, usually but not exclusively to assist in a satisfactory outcome to the informal process referred to in para 1.

10. The appeals panel will reach a decision on the complaint and the Designated Officer will notify the complainant, headteacher and governors, within 14 days, in writing, of the decision and of any subsequent action which will be taken in response to the appeal.

11. The complainant will be notified of his/her right to complain to the Secretary of State for Education if he/she disagrees with the decision of the appeals panel.

12. Gov bodies will be advised annually by the Designated Officer of the number and outcome of any complaints relating to the curriculum of their school and the time taken to deal with them.

APPENDIX B

Arrangements for Anglican Voluntary Aided and Controlled Schools and Roman Catholic Voluntary Aided Schools (regarding complaints about religious education and collective worship only)

Where a complaint about religious education or collective worship is received in relation to any of the above mentioned schools, it will be referred to the governors by the clerk to the governors as described in Appendix A above, if it cannot be resolved by informal means.

2. If the governors of the school are unable to resolve a complaint to the satisfaction of the complainant, the matter should be decided by the Bishop of the Diocese to whose jurisdiction the school belongs.

APPENDIX C

The Structure of the Appeal Panel

1. In Cornwall the appeal panel is drawn from a panel of County Councilors, and Members of the L.E.A., parents, teachers, others with experience of education and lay members. Usually the panel will comprise 5 persons and will be advised by the Designated Officer.

2. The hearing will be held locally, in private and is informal.
3. Although complainants are encouraged to attend a hearing, the appeal may, if they wish, be heard and decided by the panel on the basis of written representations without a hearing.
4. Complainants will only be liable for their own costs in making an appeal.
5. The clerk of the appeal panel will be an officer of the Department of Finance and Administration of Cornwall County Council, County Hall, Truro. TR1 3AY.

To: Local Education Authorities, Governing bodies and head teachers of county, voluntary and maintained special schools. Other bodies

EDUCATION REFORM ACT 1988:

LOCAL ARRANGEMENTS FOR THE CONSIDERATION OF COMPLAINTS

INTRODUCTION

1. The Education Reform Act 1988 requires the establishment of local arrangements, approved by the Secretary of State, for the consideration of complaints about the actions of governing bodies and LEAs in respect of the school curriculum and related matters. This Circular:

(i) offers advice to local education authorities on the establishment of such local arrangements;

(ii) invites LEAs to prepare and submit their proposals to the Secretary of State not later than 30 April 1989 in order that agreed arrangements can be in place to deal with complaints made on or after 1 September 1989 as required by Section 23 of the Education Reform Act.

The guidance contained in this Circular does not constitute an authoritative legal interpretation of the Act; that is exclusively a matter for the courts.

2. All enquiries about this Circular, and proposals submitted for approval in due course, should be addressed to:

Mrs S Jetha
Schools Branch 3
Department of Education and Science
York Road
London SE1 7PH
Tel: 01 934 9317

BACKGROUND

3. Section 23(1) of the Education Reform Act, which came into effect on 29 July 1988, states:

Every local education authority shall, with the approval of the Secretary of State and after consultation with governing bodies of aided schools and of special agreement schools, make arrangements for the consideration and disposal of any complaint made on or after 1st September 1989 which is to the effect that the authority, or the governing body of any county or voluntary school maintained by the authority or of any special school so

maintained which is not established in a hospital

(a) have acted or are proposing to act unreasonably with respect to the exercise of any power conferred or the performance of any duty imposed on them by or under ,Â

(i) any provision of this Chapter; or

(ii) any other enactment relating to the curriculum for, or religious worship in, maintained schools other than grant-maintained schools; or

(b) have failed to discharge any such duty.,Ã

4. The Secretary of State expects that any concerns expressed by parents and others about the school curriculum and related matters will continue to be considered and, so far as possible, dealt with in informal discussion with teachers and head teachers in the first instance. It is not the intention that all such expressions of concern should be considered as ,complaints, and dealt with under the approved arrangements. However, there will be cases where such concerns cannot be resolved informally, and will fall to be considered as formal complaints under the arrangements to be made under Section 23. The purpose of such arrangements is to offer parents and others a readily accessible and clearly understood local route through which to pursue any complaint about the school curriculum and related matters.

5. The Secretary of State believes that it is right for such formal complaints also to be dealt with in the first instance by those with direct responsibility for the matters involved, so long as the procedures adopted secure that full and fair consideration is given to the views of the complainant and that there is opportunity for complaints to be considered beyond that, if necessary, by responsible persons who have not been directly involved in the issues complained about.

6. It is therefore intended that the local arrangements should ensure that a complaint is fully considered and can be pursued through the various relevant tiers of local responsibility. Normally, the first stage of the procedure for handling of complaints will be informal discussion with staff at the school. Where the issue is not resolved, the matter may then be the subject of a formal complaint under Section 23 and, if appropriate, referred to the governing body. If its investigations fail to provide a response satisfactory to the complainant, the complaint will then be referred to the LEA.

7. A complainant who remains dissatisfied after his complaint has been fully considered under the arrangements described in paragraph 6 above will still be able to make a complaint to the Secretary of State under Sections 68 or 99 of the Education Act 1944. However, under Section 23(2) of the Education Reform Act, the Secretary of State will not be able to entertain any such complaint unless it has first been through all the stages of approved local arrangements.

SCOPE OF THE ARRANGEMENTS

8. Under Section 23(1), every LEA (with the exception of the ILEA, see paragraph 9 below) will be required to have arrangements in place for the consideration and disposal of complaints about the school curriculum or related matters as respects the schools maintained by them, which are made on or after 1 September 1989. These arrangements will need to cover complaints relating to all the duties specified in paragraph 11 below which are in force on 1 September 1989, and will have to extend to those duties imposed at a later date as the National Curriculum is progressively implemented. These arrangements will not apply in respect of complaints relating to grant-maintained schools, which are dealt with under Section 58(5)(e) of the Education Reform Act.

9. In the case of the ILEA, an Order will be made under Section 231 of the Education Reform Act relieving the ILEA of the responsibility to have such a complaints machinery in place by 1 September 1989 and allowing the individual inner London councils to undertake the necessary consultations and preparatory work so that they can have approved machinery in place by 1 April 1990. Until that date, complaints relating to relevant provision in inner London will continue to be considered by the Secretary of State without the need for preliminary consideration under local arrangements.

10. The arrangements apply to complaints relating to the curricular responsibilities of the LEA or the governing body of a county, voluntary or maintained special school as specified in paragraph 11 below. Complaints about the education provided for pupils are to be considered as complaints about the exercise of the governing body's responsibilities in respect of the school curriculum. Arrangements made under Section 23 will not cover complaints about the actions of individual teachers or the head teacher. If, in the course of its consideration of a complaint, the governing body or LEA concludes that disciplinary proceedings should be initiated, it will take separate action as appropriate.

11. The duties to be covered by the complaints arrangements (which are, except where noted, common to LEAs and governing bodies) are specified in the Education Reform Act as:

i. the provision of a curriculum, including religious education and worship, which meets the general requirements of Sections 1 and 2 of the Act;

ii. the implementation of the National Curriculum and compliance with Orders and Regulations made about its requirements and exceptions to its provision (Sections 4, 10 and 17);

iii. provision to pupils of compulsory school age of courses leading to an external qualification, only if that qualification and the associated syllabus or syllabus criteria have been approved (Section 5);

iv. provision of religious education and worship as required by the Act and other

enactments (Sections 6-10 and 12);

v. in the case of an LEA, establishment of a Standing Advisory Council on Religious Education (SACRE) and review of the agreed syllabus for the area if the SACRE so requires (Section 11);

vi. the need to act reasonably in deciding whether or not to be associated with an application for exemption from all or part of the National Curriculum in order to carry out developmental work (Section 16);

vii. in the case of a governing body, consideration of appeals by parents about the temporary withdrawal of pupils from part or all of the provisions of the National Curriculum (Section 19);

viii. operation of charging policies in relation to the curriculum (Section 109);

ix. compliance with regulations about the provision of information (Section 22); and

x. compliance with any other enactments relating to the curriculum.

12. A list of current circulars relating to the duties set out in paragraph 11 above is at Annex B.

13. In the case of complaints which fall within the general scope of Section 23 arrangements, but are also the subject of specific statutory appeals procedures, the specific procedure must be exhausted before a complaint might fall to be dealt with under Section 23 arrangements. If a particular complaint is considered under an appeals procedure which allows for final appeal to the Secretary of State (for example, appeals against the special educational provision specified in a statement of special educational need, see paragraph 14 below) it can never fall within the scope of Section 23(1). However, if the appeals procedures allow only for appeal to the governing body (for example, appeals about the temporary withdrawal of pupils from part or all of the National Curriculum, see paragraph 11 vii above), a complainant who remains dissatisfied should be able to complain to the LEA under Section 23 arrangements.

14. Section 23 does not therefore affect the operation of Section 8 of the Education Act 1981 (as amended) which provides for the consideration by a local appeals committee of appeals against the special educational provision specified in a statement of special educational need. Such appeals remain the appropriate mechanism for the resolution of disagreements about the curriculum requirements specified in a statement of special educational need, and allow for a final stage of appeal to the Secretary of State if local agreement is not reached. Guidance on the procedures under the 1981 Act is contained in Circular 1/83, currently under revision.

CRITERIA FOR LOCAL COMPLAINTS MACHINERY

15. The Secretary of State will consider on their merits any proposed arrangements for the consideration of complaints. Before giving his approval, he will need to be satisfied that they offer full and fair consideration to any complainant, and avoid undue delay. In making this judgment he will refer to the criteria set out in Annex A. All proposals for approval will need to be described in sufficient detail for the Secretary of State to judge how they will work in practice and how far they meet the criteria. If authorities consider that any of these criteria are inappropriate to their own circumstances they should explain the reason for this in their submission.

16. The criteria at Annex A include the statutory requirement that LEAs must consult the governing bodies of aided and special agreement schools on their arrangements. This provision was included because of the special position of religious education in these schools, which LEAs do not have the right to inspect, and which may well require distinct procedures within the complaints arrangements.

17. LEAs may wish to consider giving SACREs a role in complaints machinery where complaints relate to religious education given in accordance with an agreed syllabus or to religious worship in county schools.

18. Specific responsibilities for other aspects of the curriculum vary as between different categories of school and different topics. For example, the secular curriculum in an aided school is under the control of the governing body, as is the policy on sex education in all maintained schools. In general, the Secretary of State would expect complaints arrangements, other than those in respect of religious education, to be common to all types of school, despite these differences in detailed responsibilities as between the LEA and governing body. The criteria indicate that the consultation process should extend to all governing bodies and head teachers as they have statutory duties under Chapter 1 of the Education Reform Act. LEAs may well wish to consult more widely, and to include representatives of local teachers.

19. As indicated in paragraph 4 above, there is no intention of inhibiting the number of complaints which can be disposed of informally. The proposed arrangements are intended to require a formal statement of local procedures for the consideration of complaints, rather than the creation of any new administrative or appeals machinery. The resources which authorities will need to allocate to the consideration of complaints will depend both on the number of complaints which fail to be disposed of informally and the nature of their formal arrangements.

SUBMISSION OF PROPOSALS

20. LEAs, with the exception of the ILEA (see paragraph 9 above), are now invited to submit for the Secretary of State, Ås approval their proposed arrangements for handling complaints. Proposals should be submitted by 30 April 1989 to the address in paragraph 2 above. If, by that date, LEAs have not finalised their proposals, the)r should submit them to the Secretary of State in draft form indicating the stage which has been reached in consultation, and stating when this process will be completed. Early sight of the proposals will enable the Department to identify and discuss any likely points of difficulty at an early stage.

21. The Secretary of State will inform LEAs of his decision as soon as possible during the summer term of 1989, so that any remaining problems can be resolved in discussion. Under Section 23(1), LEAs must have the approved arrangements in place in time to deal with complaints made on or after 1 September 1989. Section 23(2), which precludes consideration of any complaint by the Secretary of State until it has been dealt with undeE approved complaints arrangements, will be brought into effect from that date.

ANNEX A

CRITERIA FOR THE HANDLING OF COMPLAINTS ABOUT THE SCHOOL CURRICULUM AND RELATED MATTERS (SECTION 23 ARRANGEMENTS)

Preparation of arrangements

1. Before preparing arrangements the LEA should consult, either through their representatives or direct:

- (i) the governing bodies of aided and special agreement schools maintained by the LEA (this is required by Section 23 of the Education Reform Act);
- (ii) the governing bodies of other schools maintained by the LEA;and
- (iii) the head teachers of all schools maintained by the LEA.

2. If the consultation is with representatives of those mentioned, all governing bodies and head teachers should also be sent a draft of the proposals and given the opportunity to comment through their representatives.

Description of arrangements

3. The arrangements should be set out in a way which makes clear:

- (i) how the various types of complaint which must be covered by the Section 23 arrangements are to be dealt with;
- (ii) that distinct procedures exist within the arrangements for the consideration of complaints about religious education and collective worship in aided and special

agreement schools, and that these procedures have been agreed with the relevant governing bodies;

(iii) that, taken together, the arrangements are comprehensive and cover all relevant complaints, taking them from the point when informal discussion becomes inadequate to a point where the next step would be recourse to the Secretary of State; and

(iv) that, where appropriate, steps will be taken to ensure that information is available to parents in languages other than English and that, where necessary, arrangements are made for an interpreter to be present during any oral representations.

Nature of arrangements

4. The procedures established should secure that all complaints are investigated speedily, efficiently, fully and fairly, and that all aspects of each individual case are given proper consideration.

5. The arrangements need to include:

(i) a clear first point of contact in the LEA for formal Section 23 complaints, from where complaints will be fed into the appropriate level of the formal machinery;

(ii) a mechanism to identify all relevant complaints and weed out those not within the scope of Section 23;

(iii) a mechanism to identify urgent complaints, and procedures to consider them appropriately;

(iv) a series of distinct stages through which complaints would progress, and arrangements to ensure that these are followed;

(v) provision for the complainant (accompanied if so desired, and if necessary with the assistance of an interpreter) to make representations in person at each stage;

(vi) clear criteria for the identification of the end point of each stage, which will normally be after a report has been made to the complainant, and a mechanism for ensuring that the complainant is kept fully informed of progress during, as well as at the end of, each stage;

(vii) the involvement of the governing body, or members acting on its behalf, at the first formal stage of complaint. The governing body should satisfy itself that the complaint has been fully investigated and a decision taken before it is referred to the LEA for consideration;

(Viii) the involvement of elected members of the LEA. The authority should establish procedures to satisfy itself that the complaint has been fully investigated and a decision

taken before it is referred to the Secretary of State; and

(ix) at the end of each stage of the procedure, arrangements for the complainant to be informed of:

(a) the decision taken and the reasons for it;

(b) any action taken or proposed, including details of any request made to those complained against to take particular actions to resolve the complaint; and

(c) the further recourse available, eg the next stage of the LEA arrangements, or complaint to the Secretary of State.

Information about arrangements

6. LEAs should show that they have plans for general publicity about their complaints arrangements, in addition to the requirements to be established in regulations under Section 22 of the Education Reform Act for reference to be included in school prospectuses, and full copies of the complaints arrangements to be available in each school.

Monitoring

7. The arrangements should provide for regular reports to full governing bodies and to the Education Committee giving, as a minimum, summary data on the number of complaints dealt with at the various formal levels, the time taken to deal with them, and their outcomes.

ANNEX B

RELATED CIRCULARS

Guidance relating to the duties set out in paragraph 11 of the Circular is given in the following related Circulars:

Circular 1/83 Assessments and Statements of

Special Educational Needs

Circular 8/86 Education (No 2) Act 1986

Circular 7/87 Education (No 2) Act 1986:

Further Guidance

Circular 11/87 Sex Education at

Circular 6/88 The Transfer of Responsibility
for Education in Inner London

Circular 7/88 Local Management of Schools

Circular 10/88 Grant-maintained Schools

Circular /89 Religious Education and
Collective Worship*

Draft Circulars have been issued on the following:

Charging for School Activities

The School Curriculum and Assessment

Approval of Qualifications

Assessments and Statements of Special Educational Needs:

Procedures within the Education, Health, and Social Services

Information Requirements to Support the National Curriculum*

* To issue shortly