

Disability Law Service

Offering free, confidential legal advice and
representation for disabled people

**How and when to Complain to
the Secretary of State for
Education and the Local
Government Ombudsman**

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Please note that the following complaint routes may not be the most appropriate in your circumstances. For further advice, please contact the Disability Law Service (contact details below) or a specialist solicitor.

Secretary of State for Education

The Secretary of State for Education has the power to resolve disputes/complaints in certain situations. Two examples are where you think:

- a. a local education authority (LEA) or governing body of a maintained school have acted or are proposing to act unreasonably in respect of any of its powers or the performance of any of its duties (section 496, Education Act 1996). 'Unreasonable' in this sense means that the governing body or the LEA have acted (or are proposing to act) in a way in which no reasonable governing body/LEA would act. This is a high legal threshold to establish.

- b. an LEA or governing body of a maintained school has failed to discharge any duty imposed on it (section 497, Education Act 1996).

It is usually necessary to follow all internal complaints procedures before making a written complaint to the Secretary of State. However, if you feel that these procedures have not been followed correctly, you can complain.

An investigation by the Secretary of State can take six months or more so this is not an appropriate remedy where matters need to be resolved urgently.

If a complaint is upheld, no financial compensation will be made but the Secretary of State can issue such directions to the LEA or governing body as s/he considers expedient in order to resolve the complaint. A direction is enforceable by a court application made on behalf of the Secretary of State for an order requiring the governing body or the LEA to comply with the direction.

If you wish to make a complaint to the Secretary of State, write to the Secretary of State at the following address, setting out in detail the nature of your complaint:

The Secretary of State Children, Schools and Families

Sanctuary Buildings

Great Smith Street

London SW1P 3BT

Complaining to the Local Government Ombudsman (The Commissioner for Local Administration)

The Local Government Ombudsman (LGO) investigates complaints about: local authorities (including LEAs), and in the education field: independent appeals panels for admission and exclusion, school governing bodies (only in respect of admissions) and school organisation committees in relation to injustice caused by 'maladministration'. Examples of maladministration are when the relevant body does not follow its own rules or the law, takes too long to take action without good reason, fails to provide information, gives wrong information etc. Injustice caused by maladministration can take many forms such as your child's education suffering, missing the opportunity to lodge an appeal, distress or upset etc.

Note: The LGO **cannot** look into any complaint about the internal organisation, teaching, curriculum, conduct, management or discipline in a school; such a complaint could be made to the School Governors or the Secretary of State (see above). Therefore decisions taken by schools in respect of children with special educational needs are usually not within the jurisdiction of the LGO.

If the body concerned has or has not done something and you have suffered injustice as a result, you may wish to make a complaint to the LGO. The LGO will expect you to have tried to resolve the matter directly with the relevant body first (such as by complaining to the Director of the LEA/Director of Children's

Services or via the formal complaints procedure to the Local Authority Monitoring Officer). Also, if you have an alternative remedy (such as an appeal to the Special Educational Needs and Disability section of the First Tier Tribunal) the LGO will not normally investigate your complaint

A complaint to the LGO should be made in writing, attaching relevant documentary evidence and reach the LGO within 12 months of the event you are complaining about. The LGO will consider whether the body in question has acted reasonably within the law, its own policies and generally accepted standards of relevant working practice. The investigation may take several months and may therefore not be a suitable route if matters need to be resolved urgently.

If the complaint is upheld, the LGO will issue a report stating his/her findings and may make recommendations as to action that should be taken by the Local Authority (which can include recommending an award of financial compensation). It is highly unusual for a relevant body not to follow the recommendations of the LGO, but if it chooses not to do so, the LGO will make a further report setting out the facts and recommendations and the relevant body will have to issue a press statement approved by the LGO.

Complaints to the LGO should be sent to

Local Government Ombudsman

PO BOX 4771

Coventry CV4 0EH

Telephone: **0300 061 0614**

Legal Disclaimer

Although great care has been taken in the compilation and preparation of this work to ensure accuracy, DLS cannot accept responsibility for any errors or omissions. All information provided is for education / informative purposes and is not a substitute for professional advice. Any organisations, telephone numbers and links to external web-sites have been carefully selected but are provided without any endorsement of the content of those sites.

This factsheet was updated by:



London and Birmingham based solicitors specialising in Personal Injury, Employment, Education & Disability and Crime.
<http://www.levenes.co.uk/>

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For further advice on these matters please contact:

Disability Law Service

Telephone: **020 7791 9800**

Minicom: **020 7791 9801**

Fax: **020 7791 9802**

Email: **advice@dls.org.uk**

Website: **www.dls.org.uk**

Or write to us at: 39 – 45 Cavell Street, London E1 2BP

Community
Legal Service



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