

## Model Parental Complaints Panel Hearing Process

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The ISBA has worked in conjunction with HCR Law on the following guidance note.

There is no prescribed format for a Stage 3 Panel hearing on a parental complaint. The Panel may either meet with the parents and the Stage 2 decision taker in the same meeting or, the Panel may wish to meet with the parents first and if they wish, then meet separately with the Stage 2 decision maker. The format is a matter for the Chair of the Panel and may be decided on a case-by-case basis, depending on the circumstances of the complaint and what is deemed appropriate by the Chair of the Panel at the time. This may form part of any pre-meeting discussion. It would be unusual to have a pupil present in a Panel hearing (unless the Stage 3 Panel hearing is an appeal against an exclusion or required removal); this is a complaint by the parent(s). Whilst parents are entitled to be accompanied at the hearing, this does not confer a right on a parent to have a legal representation to make representations on their behalf.

The following process presumes that the Stage 2 decision taker, who is typically the Head, is present in the room as part of the Panel hearing with the parents in attendance at all times. Schools should always ensure that Panel hearing processes that they convene are consistent with: 1) their Complaints Procedure; 2) any instructions sent to Panel members on their appointment; and 3) with communications between the Panel Secretary/Clerk and parents in respect of the Panel hearing process.

This Panel hearing process guidance document is designed to assist Panels considering Stage 3 *parental complaints* only and is not intended to apply to appeals of exclusion and required removals even in circumstances where these are governed by the Stage 3 of a school's Complaints Procedure. Appeals of exclusions and required removals are not subject to Part 7 of the Independent Schools Standards and there may be circumstances in which the School consider it necessary and appropriate to deviate from this Panel hearing process. Such appeals should still be conducted in a fair and reasonable manner and in accordance with the requirements of natural justice and applicable school policies.

#### 1. Preliminaries

- 1.1 The Panel convenes with the Secretary/Clerk to the Panel (or his/her representative) present as note taker.
- 1.2 The Parents and their Companion (if attending) and Stage 2 decision taker [(and their Companion)] are asked into the room.

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The Chair of the Panel (Chair) identifies all of the people present and their roles, i.e. Panel members, note taker, Parents (and their Companion), Stage 2 decision taker [(and their Companion)] and any witnesses. It is helpful (if not already clear) to identify the independent member of the Panel.

The Chair explains that the role of the note taker is not to take a verbatim note but rather an accurate reflection of what was discussed. Notes of the hearing will be circulated to all attendees, as soon as reasonably practicable. Any comments on the notes will be considered by the Chair and appended to the notes..

- 1.3 The Chair checks that all parties have received copies of the bundle of documents prepared for the hearing and explains any redactions. There may be a preliminary enquiry as to whether there are any additional documents since completion and circulation of the bundle.
- 1.4 The Chair may wish to remind participants that recording the hearing (audio and/or visual) is not permitted (unless it has been agreed by the Chair that recording is permitted).
- 1.5 The Chair makes a general enquiry as to whether there are any preliminary points that need to be raised before the hearing begins.
- 1.6 The Chair may wish to emphasise the confidential nature of the panel hearing process.
- 1.7 If there are any particular circumstances (such as anticipated breaks, adjustments to the process) then the Chair should raise these at the preliminary stage.

## 2. Introduction

- 2.1 The Chair outlines the reason for the Panel hearing and identifies what steps have been taken so far in terms of process.
- 2.2 The Chair explains that, after due consideration of the merits of the complaint and all facts they consider relevant, the Panel will make findings as to whether or not the Stage 2 decision was a reasonable one. The outcomes which may be reached by the Panel include:
  - Dismissing the complaint(s) in whole or in part;
  - Upholding the complaint(s) in whole or in part; and
  - Making recommendations, where appropriate.

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- 2.3 The Chair explains that the Panel's decision will not be given today but the Panel will write to the Parents with the decision and reasons within [5/number]<sup>1</sup> working days.
- 2.4 Where relevant, the Chair may need to explain to the Parents that they are unable to make a financial award (i.e. such as a refund of fees) on behalf of the School.

### 3. The Hearing

- 3.1 The Chair asks the Parents to explain their complaint and may ask the parents to refer to documents contained in the bundle where appropriate. Alternatively, the Parents may confirm that they will simply rely on the grounds of complaint as submitted to the Panel in writing in advance of the hearing.
- 3.2 The Chair and other members of the Panel ask the Parents any questions that they have regarding the grounds of complaint.
- 3.3 If the Stage 2 decision taker is present in the hearing, the Chair asks the Stage 2 decision taker if s/he would like to make any comments.
- 3.4 The Chair and other members of the Panel ask the Stage 2 decision taker any questions that they have. Parents are not permitted to ask questions directly of the Stage 2 decision taker and any witnesses brought by the Stage 2 decision taker.
- 3.5 The Chair and other members of the Panel ask any further questions of either party that arise and need consideration.
- 3.6 The Chair invites the Parents to make any concluding remarks.

### 4. Adjournments, Deliberation and Decision

- 4.1 The Panel thanks the parties for attending and, if necessary, the Chair adjourns the hearing for any cause including to undertake further investigation or to seek expert guidance on any matters that have arisen. If any other party desires that the hearing be adjourned on a temporary basis a request should be made to the Chair. If the Chair accedes to the request he or she will inform the parties on how and when the Panel will reconvene either verbally at the hearing or in writing as soon as reasonably practicable following the adjournment. The Chair has the discretion to reconvene on paper only or the hearing itself can be reconvened.

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<sup>1</sup> The period by which a decision of the Panel will be notified to the Parents in writing should be stated in the school's Complaints Procedure.

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- 4.2 The Chair explains to the parties that the Panel will retire to consider their decision which will be notified to the parties in writing within [5/number]<sup>2</sup> days and that the decision is final.
- 4.3 If any further investigation is required, the Chair will explain to the Parents that there may be a delay in providing the outcome and set out any revised timescales.
- 4.4 The Chair closes the hearing and reminds the parties of the confidential nature of the proceedings.
- 4.5 The Panel deliberates in private.
- 4.6 The Secretary/Clerk to the Panel types up the minutes of the meeting which will be sent to the parties with the decision letter. Any comments on the minutes from the Parents will be appended to them.
- 4.7 In accordance with any instructions given by the Chair or the Secretary/Clerk to the Panel and in accordance with applicable data protection rules and regulatory requirements, the Panel members and parents will return any hardcopy bundles of the hearing papers to the Secretary/Clerk to the Panel who will determine whether to store them all securely or keep one copy in accordance with applicable policies. All parties are reminded of the confidentiality of the process and will be asked to ensure that any electronic copies of materials are deleted securely. The exception to this is where it is necessary for an independent panel member to securely retain an electronic bundle in accordance with any applicable data protection regulations and/or regulatory requirements.

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<sup>2</sup> The period by which a decision of the Panel will be notified to the Parents in writing should be stated in the school's Complaints Procedure.