



Lord Nash

Parliamentary Under Secretary of State for Schools

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Dr Achmad da Costa
Chair
Oldknow Academy Trust
Oldknow Academy
Oldknow Road
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9 June 2014

Dear Dr Da Costa

Oldknow Academy Trust

I am writing to you in your capacity as the chair of the Oldknow Academy Trust (“the Trust”) setting out the scale of my concerns about Oldknow Academy (“the Academy”).

On 7 and 8 April 2014 Ofsted carried out a section 5 inspection of the Academy. In its report, a copy of which was sent to you on 20 May, Ofsted concluded that the Academy requires special measures, because although the achievement of pupils and quality of teaching is outstanding, there are fundamental weaknesses in the governance and leadership of the Academy and in how it keeps its pupils safe. In addition, an investigation into the Trust by the Education Funding Agency (EFA) found evidence of numerous and serious breaches of the funding agreement and the Independent Schools Standards. Both reports are published today and they cause me grave concern.

Clause 96 of the funding agreement, which you entered you into with the Secretary of State on 1 April 2012, provides for him to terminate the funding agreement if its requirements are no longer being met. Having considered the findings from the Ofsted inspection and the EFA Review, I am satisfied that the Trust is no longer meeting the requirements set out in clause 10 and in clauses 12 – 33 of the funding agreement (specifically, the clauses set out below). Therefore the Secretary of State is minded to terminate the funding agreement unless all the breaches are addressed promptly, in full, and to his satisfaction.

Summary

The Trust has breached its funding agreement because the governance and leadership of the Academy is inadequate and governors are not fulfilling the terms of the funding agreement; the appointment of governors is not appropriately carried out and the membership of the governing body is not clear; the recruitment and performance management arrangements for staff are inadequate; it is failing to keep children safe; and your curriculum is considered by Ofsted to be inadequate because it does not foster an appreciation of, and respect for, pupils’ own or other cultures.

Governance and leadership

Clause 14 of the funding agreement requires that the Governing Body (GB) shall have regard to (but for the avoidance of doubt shall not be bound by) any guidance as to the governance of academies that the Secretary of State shall publish.

Clause 15 of the funding agreement requires that the Academy shall be conducted in accordance with a) the Memorandum and Articles of Association, which shall not be amended without the written consent of the Secretary of State, such consent not to be unreasonably withheld; b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the Independent School Standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy; c) the terms of this Agreement.

I believe the Trust is in breach of these clauses for the following reasons:

The Ofsted and EFA evidence demonstrates that the Academy is not being led or governed effectively. Governors are not appointed in accordance with the Articles of Association and there is evidence that appointments are made by the chair and not in accordance with the Articles (specifically, Articles 46, 53-59). The membership of the governing body is not clear. The Ofsted report states that *"Inspectors found that important decisions are being made by a small number of governors, including the Chair of Governors, rather than by the governing body collectively. Governors, especially the Chair of Governors, exert too much influence in the day-to-day running of the academy"*.

The Trust is not compliant with financial regulations and procedures and is in breach of the Academies Financial Handbook (as set out in Schedule 1 to the EFA Review at pages 26-28). There are inconsistencies and non-compliance with the Trust's own policies and procedures. There is evidence of related party transactions and other pecuniary interests of governors and staff that have not been disclosed (contrary to Article 6.6 of the Articles of Association).

The Ofsted report states that *"There is a lack of clarity about how staff were appointed to temporary leadership roles in the academy. Some staff have been promoted despite limited experience. In addition, the central record which includes checks on staff recruited to the academy is not up to date. During the inspection, staff reported to Her Majesty's Inspectors that recruitment to posts is neither fair nor open. They believe that decisions to recruit, appoint and promote staff are made outside of the academy."*

Staff at different levels of the organisation reported to both Ofsted and EFA that they feel scared to raise concerns for fear of reprisals. Ofsted report that *"some staff... feel afraid to speak out against the recent changes in the academy for fear of losing their jobs"*.

The Trust's Board minutes illustrate that the Trust has set *"unachievable targets"* for the Academy executive. Ofsted report that *"salary rises and promotion are not managed in an open and transparent way"*. Ofsted found evidence which shows the Trust cannot locate its own performance management records, yet the records show pay increases to members of staff have been awarded.

The Academy's implementation of its complaints policy is not compliant. There is no record of parental complaints about the changes in the Academy that are reported to have been made.

Safeguarding

Clause 15 requires that the Academy shall be conducted in accordance with a) the Memorandum and Articles of Association, which shall not be amended without the written consent of the Secretary of State, such consent not to be unreasonably withheld; b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the Independent School Standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy; c) the terms of this Agreement.

Clause 16 requires that the Academy shall comply with the requirements of paragraph 4 of the Schedule to the Education (Independent School Standards)(England) Regulations 2003 (as amended) in relation to carrying out enhanced criminal records checks, obtaining enhanced criminal records certificates and making any further checks, as required and appropriate for members of staff, supply staff, individual Governors and the Chair of the Governing Body.

I believe the Trust is in breach of these clauses for the following reasons:

The Ofsted report states *"The governing body does not give pupils' safety a high enough priority. They are unable to ensure that pupils are kept safe from any extreme or radical views they encounter because they do not consider this is an appropriate topic for primary school pupils. Pupils and staff are poorly equipped to understand, respond to or calculate risks associated with extreme or intolerant views."*

The Ofsted report states that *"not all visitors to the academy are recorded on the electronic system"*. The EFA report notes that you, the Chair of Governors, visit unannounced, yet you do not appear to have a complete CRB check.

You do not have a Single Central Register that is compliant. It does not, for example, cover checks of your identify as Chair of the Trust and other checks are similarly missing.

The EFA report states *"the Arabic and maths teacher...brought the boys into a store cupboard to change....This is a child protection issue"*. Ofsted has assessed the Academy's *"work to keep pupils safe is inadequate"*. The EFA found that the website version of the Academy's Child Protection Policy was inconsistent with the one provided to them by the Academy and it did not cover aspects such as forced marriage, female genital mutilation and homophobic bullying.

The Ofsted report states *"the grounds of the academy are secure, but parts are unkept...uneven pathways from teaching block to teaching block pose an unnecessary risk to the safety of pupils and staff"*.

Radicalisation

Clause 15 requires that the Academy shall be conducted in accordance with a) the Memorandum and Articles of Association, which shall not be amended without the written consent of the Secretary of State, such consent not to be unreasonably withheld; b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the Independent School Standard prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy; c) the terms of this Agreement.

I believe the Trust is in breach of this clause for the following reasons:

The Ofsted report states that *“They are unable to ensure pupils are kept safe from any extreme or radical views they encounter because they do not consider this an appropriate topic for primary school pupils. Pupils and staff are poorly equipped to understand respond to or calculate risks associated with extreme or intolerant views”*.

Ofsted found that the Trust has no clear policies or procedures for staff or students on the use of discriminatory language. Interviews with staff demonstrate they have no understanding or training in the PREVENT agenda, leaving them and their students open to undue influence. The Ofsted report states that *“Leaders do not take sufficient action to prevent discriminatory language other than the use of racist language. The academy has recently rewritten its policy to tackle this issue but it is not being implemented. As a consequence, the academy does not meet the requirements of the Equality Act 2010. Plans are in place to train staff on all issues of equality”*.

The EFA report states that a member of your staff has *“made statements during Christmastime assembly including: “Jesus wasn’t born in Bethlehem, was he?” and “We don’t celebrate Christmas do we?” to which the children were expected to reply “No”*”.

The EFA observed segregation of girls and boys within one class taught by the teacher referred to in the previous paragraph, with girls sitting at the back of the room.

Increasing faith ethos in the Academy

Clause 15 requires that the Academy shall be conducted in accordance with a) the Memorandum and Articles, which shall not be amended without the written consent of the Secretary of State, such consent not to be unreasonably withheld; b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the Independent School Standards prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy; c) the terms of this Agreement.

Clause 24 requires that the Academy Trust shall make provision for the teaching of religious education and for a daily act of collective worship.

Clause 26 requires that where the Academy has not been designated with a religious character in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010:

- a) Subject to clause 27, the Academy Trust shall ensure that provision shall be made for religious education to be given to all pupils at the Academy in accordance with the requirements for agreed syllabuses in section 375(3) of the Education Act 1996 and paragraph 2(5) of schedule 19 to the School Standards and Framework Act 1998;
- b) Subject to clause 27, the Academy Trust shall ensure that the Academy complies with the requirements of section 70(1) of, and schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that the provisions of paragraph 4 of that schedule do not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that

Schedule, the Secretary of State's consent to such an application not to be unreasonably withheld or delayed.

I believe the Trust is in breach of these clauses for the following reasons:

It is a matter of fact that Oldknow Academy Trust does not have a valid determination exempting it from having a daily, broadly Christian act of worship. The previous determination has expired, yet you are not delivering an act of broadly Christian daily collective worship. The Ofsted report also states that *"The arrangements of the newly introduced second Islamic assembly, led and supervised only by the acting principal with no other adults present, are unsatisfactory"*. You have also cancelled the Acts of Collective Worship previously delivered via the Birmingham City Mission.

You have cancelled established and popular events, such as Christmas pantomimes, elements of the Academy fair and Diwali celebrations on the basis of either cost or the lack of educational improvement. However, there is no evidence that the Trust has applied the same challenge to the removal of children for 10 days to travel to Saudi Arabia.

The EFA report states that staff informed them that the lesson observed during the review team visit on Christianity had *"been put on especially for our benefit"*.

Ofsted has evidence that the Trust has been considering catering for children to do the Hifz (memorisation of the Qur'an); that pupils should be taught Islamic history, the biography of the Prophet and Islamic morals. My officials have seen documents that suggest you are considering changing teachers' terms and conditions to extend the Academy day to deliver these plans.

The Ofsted report states that *"senior leaders told the HMI that a madrasa had been established in the academy and paid for from the academy's budget. This was not in operation at the time of the inspection"*.

Curriculum

Clause 10a requires that the school has a curriculum satisfying the requirements of section 78 of EA 2002 (balanced and broadly based curriculum).

Clause 22 requires that the curriculum provided by the Academy to pupils up to the age of 16 shall be broad and balanced.

Clause 24 requires that the Academy Trust shall make provision for the teaching of religious education and for a daily act of collective worship.

Clause 26 requires that where the Academy has not been designated with a religious character in accordance with section 124B of the School Standards and Framework Act 1998 or further to section 6(8) of the Academies Act 2010:

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with the requirements of section 70(1) of, and schedule 20 to, the School Standards and Framework Act 1998 as if it were a community, foundation or voluntary school which does not have a religious character, except that the provisions of paragraph 4 of that schedule do not apply. The Academy may apply to the Secretary of State for consent to be relieved of the requirement imposed by paragraph 3(2) of that Schedule, the Secretary of State's consent to such an application not to be unreasonably withheld or delayed.

I believe the Trust is in breach of these clauses for the following reasons:

The Ofsted report states that "*The curriculum is inadequate because it does not foster an appreciation of, and respect for, pupils' own or other cultures. It does not promote tolerance and harmony between different cultural traditions*". The EFA report states that "*the schemes of work and timetables show years 5 and 6 have a narrower range of subjects than for years 3 and 4... There are fewer enrichment activities than a year ago*". Use of musical instruments was actively discouraged by some staff.

Trips to Saudi Arabia

Clause 10a requires that the school has a curriculum satisfying the requirements of section 78 of Education Act 2002 (balanced and broadly based curriculum).

Clause 12 a) requires that the school will be at the heart of its community, promoting community cohesion and sharing facilities with other schools and the wider community.

Clause 15 requires that the Academy shall be conducted in accordance with a) the Memorandum and Articles of Association, which shall not be amended without the written consent of the Secretary of State, such consent not to be unreasonably withheld; b) all provisions by or under statute which confer rights or impose obligations on Academies including, without limitation, the Independent School Standard prescribed under section 157 of the Education Act 2002 to the extent they apply to the Academy; c) the terms of this Agreement.

Clause 16 requires that the Academy shall comply with the requirements of paragraph 4 of the Schedule to the Education (Independent School Standards)(England) Regulations 2003 (as amended) in relation to carrying out enhanced criminal records checks, obtaining enhanced criminal records certificates and making any further checks, as required and appropriate for members of staff, supply staff, individual Governors and the Chair of the Governing Body.

Clause 74a) requires that the Trust shall satisfy the Secretary of State that in its conduct and operation it shall apply financial and other controls which conform to the requirements both of propriety and of good financial management.

I believe that the Academy's annual trips to Saudi Arabia are in breach of these clauses and I am concerned by the evidence gathered by both Ofsted and EFA in relation to them.

The evidence shows the Trust is failing to follow appropriate safeguarding procedures in terms of the adults accompanying children; raises significant concerns regarding the financial aspects, including who is able to attend without paying; and clearly discriminates against non-Muslim students and staff by not making provision for their attendance.

The Ofsted report states "*the Governing Body have used the academy's budget to*

subsidise a trip to Saudi Arabia for only Muslim pupils. The choice of destination means that pupils from other faiths were not able to join the trip”.

I am also concerned that in seeking to portray the trip as a cultural and linguistic experience to members of the of the EFA team visiting the Academy, but clearly describing the trip as a religious experience or duty to parents at the Academy (the Trust also informed parents that this was an opportunity for children to perform Umrah), the Chair of the Trust has deliberately misled either the Department or parents.

There has been no assessment of the value for money involved. The EFA reports the package costs for the trip in 2013 were £47,200 and in 2014 £49,850, including parental contributions. The children, staff and governors are staying in 5 star hotels, providing tips to porters, and using significant public funds as petty cash.

Use of Pupil Premium

Clause 74a) requires that the Trust shall satisfy the Secretary of State that in its conduct and operation it shall apply financial and other controls which confirm to the requirements both of propriety and of good financial management.

The Trust’s governing body minutes indicate the Trust intends to spend £80,000 of the pupil premium to purchase laptops for all Year 6 pupils irrespective of their status, but with no evidence as to how this will benefit the group of children for whom this funding is intended.

Actions required by the Trust to address breaches of the funding agreement

Pursuant to clause 97 of the funding agreement (FA), I require the following actions to be taken before 4 July 2014.

1. Immediately cease all and any practices and procedures that have as their reason, cause or effect that non-Muslim persons are separated from or treated less favourably than Muslims. The Trust must provide us with evidence by the due date to demonstrate how they have complied with this requirement. (clause 15 of the FA)
2. Immediately cease all and any practices that segregate or have the effect of segregating female and male pupils in classes. The Trust must provide us with evidence by the due date to demonstrate how they have complied with this requirement. (clause 15 of the FA)
3. To provide copies of your agreed Safeguarding Policies that are in force to demonstrate how the Trust has had regard to current published statutory guidance issued by the Secretary of State. (clauses 14,15 of the FA)
4. Review and update the Single Central Record and demonstrate, by sending me a copy of it and the documents used to update it, that it records accurately all the required information for checks on staff. (clauses 15,16 of the FA)
5. To provide a clear and detailed plan as to how the Trust will strengthen the curriculum and its delivery to ensure that all students:
 - Have an understanding of the risks associated with extremist views;

- Are educated about tolerance and harmony between different cultures and traditions; and
 - Benefit from an effective programme of Personal Social Health and Economic education and citizenship.(clause 10 of the FA)
5. To provide a clear statement and action plan to show how the Trust has satisfied itself that the governors, senior leadership and staff have the skills, experience and qualifications to deliver the actions at action 4. (clauses 14,15 of the FA)
 6. To provide satisfactory evidence that the Trust delivers religious education in accordance with the agreed syllabus adopted by the Local Authority and which must reflect the fact that the religious traditions in Great Britain are in the main Christian, whilst taking account of the teaching and practices of other principal religions represented in Great Britain. The Trust must also demonstrate how it complies with its statutory duties in respect of Daily Collective Worship for all students. (clauses 15,26 of the FA)
 7. To put in place a curriculum that is broad and balanced and provide:
 - the Academy's schedule of learning for both boys and girls; and
 - schemes of work for all subjects and all year groups. (clauses 10,15 of the FA)
 8. To provide a clear plan setting out how the Trust will carry out an external review of governance and how and when this will be implemented. This must include a clear terms of reference that will satisfy me that the governance issues identified will be rectified. (clauses 14,15 of the FA)
 9. The Trust must satisfy me that there have put in place transparent and compliant governance arrangements. This must include a clear accountability statement that sets out the respective roles and responsibilities of the Trust, its Chair, the local governing body, and senior leadership team. (clauses 14,15 of the FA)
 10. The Trust must satisfy me that it is abiding by the terms of the Academies Financial Handbook in particular those items listed in paragraph 86 of the EFA Report 'Review of Oldknow Academy Trust, May 2014'. (clause 14 of the FA)
 11. The Trust must satisfy me that its recruitment arrangements are operated in a fair and transparent manner that improves the standards of education for children and keeps them safe at all times. (clause 15 of the FA)
 12. Satisfy me that the grounds of the Academy are secure. (clause 15 of the FA)
 13. Urgently implement a policy, which satisfies me that complaints from parents, teachers and students are being dealt with in a fair, open and transparent manner. (clause 15 of the FA)

I also require you to provide me with a single coherent, clear plan, with specific actions and timescales, which will satisfy me that your Trust has:

- the skills, experience and, where appropriate, the qualifications in the Trust and

governing body to remedy this situation; (clauses 14,15 of the FA)

- the systems, processes and policies in place to make sure children are kept safe, well-educated and supported with a broad and balanced curriculum; (clauses 10,15 of the FA)
- a clear and transparent system of good governance within the Trust; (clause 14,15).

Independent School Standards

It is a requirement of the Academy being listed on the Register of Independent Schools, and therefore of entitlement to run an independent school, that you should comply with the Independent School Standards.

This letter also gives notice under section 165(3) of the Education Act 2002 identifying the following Independent School Standards which you are failing to meet and requiring you to submit an action plan in accordance with section 165 (4) before 4 July 2014.

Standards 5(a)(v) and (vi): This failing arises from two matters:

(i) A failure to implement effectively a revised policy designed to prevent discriminatory language other than racist language. This would include, for example discriminatory language based on gender, which is likely to result in pupils having difficulty in participating properly in wider society. The requirement here is to train staff in the policy, set out clear sanctions for breaches, monitor its implementation and take action where it is not working; and

(ii) Although the educational attainments of the academy are outstanding, the curriculum is described by Ofsted as not meeting this standard because it lacks sufficient breadth in terms of cultural diversity. This is a very wide-ranging matter. An independent review of the curriculum carried out subject by subject, if successfully implemented, would enable the standard to be met.

Standard 7: two matters are identified in the Ofsted report that relate to this standard:

(i): Lack of risk assessments for visits by pupils, visitors to the Academy, and links with schools overseas. All of these present potential risks through contact with extremist thought, and the suitability of all such contacts should be assessed before they are undertaken. The remedy for this is to draw up a risk assessment policy showing what risk assessments will be carried out for each type of contact, who within the Academy can authorise the contact, and what oversight the governing body will have; and then to implement such a policy properly including staff training and familiarisation.

(ii) The provision of a second, Islamic, assembly with only the acting principal present is unsatisfactory but this could be remedied immediately by having other staff members present.

Standard 22: The Ofsted report says that the single central register is not up to date. It should be brought up to date immediately, cross-checking with relevant documentation in respect of staff and governors, and then kept up to date.

Standard 23C: The Ofsted report identifies two specific matters which lead to this standard

being failed: uneven pathways between teaching blocks, which should be replaced or repaired and a farm area which presents safety hazards although fenced-off since children may be able to access it; and

Standard 25: The EFA report and Ofsted both set out the Trust's failure to maintain an accurate written record of complaints.

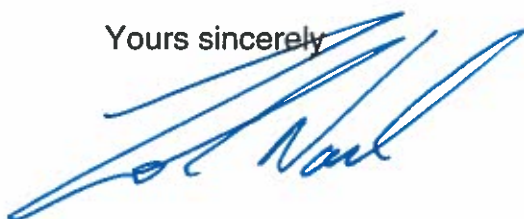
You should note that I reserve the right to impose further conditions on the Trust should other matters come to my attention.

I am deeply mindful of the need to eliminate discrimination, advance equality of opportunity and foster good relations between those sharing protected characteristics and those who do not share such characteristics (Equality Act 2010, section 149). Ensuring that the Trust meets the requirements and conditions set out in the funding agreement, as well as the standards for independent schools, positively promotes these aims.

Response

Your responses should be in writing, addressed to me, and a copy emailed to Colin Diamond at the Department for Education (colin.diamond@education.gsi.gov.uk) before 4 July 2014.

Yours sincerely



LORD NASH

SCHEDULE 1 – OLDKNOW ACADEMY

The following Independent School Standards are not being met in relation to the Academy:

Paragraph:	Content:
Part 2 of Schedule 1 – Spiritual, Moral, Social and Cultural Development of Pupils	
5	<p>The standard about the spiritual, moral, social and cultural development of pupils at the school is met if the proprietor—</p> <p>(a) ensures that principles are promoted which—</p> <p style="padding-left: 40px;">(v) assist pupils to acquire an appreciation of and respect for their own and other cultures in a way that promotes tolerance and harmony between different cultural traditions</p> <p style="padding-left: 40px;">(vi) encourage pupils to respect the fundamental British values of democracy, the rule of law, individual liberty and mutual respect and tolerance of those with different faiths and beliefs.</p>
Part 3 of Schedule 1 – Welfare, Health and Safety of Pupils	
7	<p>The standard in this paragraph is met if the proprietor ensures that—</p> <p>(a) arrangements are made to safeguard and promote the welfare of pupils at the school; and</p> <p>(b) such arrangements have regard to any guidance issued by the Secretary of State.</p>
Part 4 of Schedule 1 - Suitability of staff, supply staff, and proprietors	
22	<p>(1) The standard in this paragraph is met if the proprietor keeps a register which shows such of the information referred to in sub-paragraphs (3) to (7) as is applicable to the school in question.</p> <p>(2) The register referred to in sub-paragraph (1) may be kept in electronic form, provided that the information so recorded is capable of being reproduced in legible form.</p> <p>(3) The information referred to in this sub-paragraph is, in relation to each member of staff ("S") appointed on or after 1st May 2007, whether--</p> <p style="padding-left: 40px;">(a) S's identity was checked;</p> <p style="padding-left: 40px;">(b) a check was made to establish whether S is barred from regulated activity relating to children in accordance with</p>

	<p>section 3(2) of the Safeguarding Vulnerable Groups Act 2006 or is subject to any direction made under section 142 of the 2002 Act or any disqualification, prohibition or restriction which takes effect as if contained in such a direction;</p> <ul style="list-style-type: none"> (c) checks were made to ensure, where appropriate, that S had the relevant qualifications; (d) an enhanced criminal record certificate was obtained in respect of S; (e) checks were made pursuant to paragraph 19(2)(d); (f) a check of S's right to work in the United Kingdom was made; and (g) checks were made pursuant to paragraph 19(2)(e), <p>including the date on which each such check was completed or the certificate obtained.</p> <p>(4) The information referred to in this sub-paragraph is, in relation to each member of staff in post on 1st August 2007 who was appointed at any time before 1st May 2007, whether each check referred to in sub-paragraph (3) was made and whether an enhanced criminal record certificate was obtained, together with the date on which any check was completed or certificate obtained.</p>
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Part 5 of Schedule 1 – Premises of and Accommodation at Schools

23C	<p>The standard in this paragraph is met if the proprietor ensures that the school premises and the accommodation and facilities provided therein are maintained to a standard such that, so far as is reasonably practicable, the health, safety and welfare of pupils are ensured.</p>
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7 of Schedule 1 – Manner in which Complaints are to be Handled

25	<p>The standard about the manner in which complaints are handled is met if the proprietor ensures that a complaints procedure is drawn up and effectively implemented which deals with the handling of complaints from parents of pupils and which--</p> <ul style="list-style-type: none"> (j) provides for a written record to be kept of all complaints, and of whether they are resolved at the preliminary stage or proceed to a panel hearing;
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