



MANAGING PERSISTENT OR VEXATIOUS COMPLAINTS, INCLUDING HARRASSMENT

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1. INTRODUCTION

- 1.1. OWN Trust is committed to dealing with all complaints fairly and impartially and in a timely manner, and to providing a high-quality service to those who complain.

Most complaints can be handled in an informal manner and are resolved quickly, sensitively and to the satisfaction of the complainant or will follow the **OWN Trust Complaints Policy** procedures.

However, there are a minority of occasions when complainants behave in an unreasonable manner when raising and/or pursuing concerns. The consequences are that the actions of the complainant begin to impact negatively on the day-to-day running of the school and directly or indirectly the overall well-being of the children or staff within OWN Trust schools. In these exceptional circumstances the school may be required to consider an alternative course of action and act in accordance with this Policy.

- 1.2. We will not normally limit the contact that complainants have with Trust or school staff.
- 1.3. We do not expect staff to tolerate unacceptable behaviour by complainants or any service user. Unacceptable behaviour includes behaviour that is abusive, offensive or threatening and may include:
- Using abusive or foul language on the telephone, face to face, or in writing;
 - Sending abusive or multiple emails;
 - Leaving multiple voicemails
 - Using threatening or intimidating behaviour;
 - Demonstrating unacceptable behaviour online and/or via social media.

- 1.4. Raising legitimate queries or criticisms of a complaints procedure, as it progresses, for example if agreed timescales are not met, should not itself lead to a complainant being regarded as vexatious or an unreasonably persistent complainant.
- 1.5. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause the complainant's behaviour to be labelled vexatious or unreasonably persistent.

2. AIMS OF POLICY

2.1. The aims of this policy are to:

- Uphold the standards of courtesy and reasonableness that should characterise all communication between the school and persons who wish to express a concern or pursue a complaint.
- Support the well-being of children, staff and everyone else who has legitimate interest in the work of the school, including governors and parents.
- Deal fairly, honestly, openly and transparently with those who make persistent or vexatious complaints and those who harass members of staff in school while ensuring that other stakeholders suffer no detriment.

3. PARENTS' EXPECTATIONS OF THE SCHOOL

3.1. Parents/carers/members of the public who raise either informal concerns or formal complaints with the school can expect the school to:

a) communicate to parents/carers:

- how and when problems can be raised with the school;
- the existence of the Trust's complaints procedure, and
- the existence of the Policy for Dealing with Persistent or Vexatious Complaints and/or Harassment in Schools;

b) respond within a reasonable time frame (generally 7 days unless subject to a specific alternative policy or requirement);

c) be available for consultation within reasonable time limits bearing in mind the needs of the pupils within the school and the nature of the complaint;

d) respond with courtesy and respect;

e) attempt to resolve problems using reasonable means in line with the Trust's complaints procedure and other policies and practice;

f) keep complainants informed of progress towards a resolution of the issues raised.

4. THE SCHOOL'S EXPECTATIONS OF PARENTS/CARERS/MEMBERS OF THE PUBLIC

- 4.1. The school can expect parents/carers/members of the public who wish to raise concerns with the school to:
- a) treat all school staff with courtesy and respect;
 - b) respect the needs and well-being of pupils and staff in the school;
 - c) not use, or threaten use, of violence to people or property;
 - d) not display any aggression or verbal abuse;
 - e) recognise the time constraints under which members of staff in schools work and allow the school a reasonable time to respond;
 - f) recognise that resolving a specific problem can sometimes take some time;
 - g) in the case of a complaint, follow the Trust's Complaints Policy and Procedure.

5. WHAT IS UNREASONABLE COMPLAINANT BEHAVIOUR?

Definitions

- 5.1. We have adopted the Local Government Ombudsman's (LGO) definition of 'unreasonable complainant behaviour' and 'unreasonable persistent complaints'.
- 5.2. We define unreasonably persistent and vexatious complainant behaviour as *'those complainants who, because of the nature or frequency of their contacts with the school or Trust, hinder our consideration of their, or other people's, complaints.'* The description 'unreasonable persistent' and 'vexatious' may apply separately or jointly to a particular complaint or complainant's behaviour..

Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.

- 5.3. For the purpose of this policy, a persistent complaint is where a parent/carer or member of the public who complains about issues, either formally or informally, or frequently raises issues that the complainant considers to be within the remit of the school, and whose behaviour is unreasonable. Features of an unreasonably persistent and/or vexatious complaint include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the complaint will be considered as being in this category):

An unreasonably persistent and/or vexatious behaviour of a complainant may be that s/he:

- have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)

- refuse to specify the grounds of a complaint despite offers of assistance
- refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure
- refuse to accept that issues are not within the power of the school or Trust or school to investigate, change or influence (examples could be a complaint about something that is the responsibility of another organisation)
- refuse to accept the school or Trust has addressed any employment matters arising from the outcome of a complaint, or make repeated requests for details regarding such action, which will not be shared (see paragraph 6.8)
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint)
- make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints
- make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, telephone calls or emails)
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of language that is disrespectful, hurtful, discriminatory, or derogatory in any way.
- raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- deny statements he or she made at an earlier stage in the complaint process
- electronically record meetings and conversations without the prior knowledge and consent of the other person/s involved
- adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the school or Trust, but at the same time with other Schools/Colleges.
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- persistently approach the school or Trust through different routes about the same issue

- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons
- refuse to accept documented evidence as factual
- complain about or challenge an issue based on a historic and irreversible decision or incident
- resort to social media or other forms of media to highlight a complaint either before, during or after it being attended to using formal channels
- canvass others in order to 'crowd fund' a complaint or to source a new complainant to act as a proxy for them.
- combine some or all of these features
- refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- uses Freedom of Information requests excessively and/or unreasonably and outside of the principles of the Freedom of Information Act;
- insists upon pursuing unsubstantial complaints and/or unrealistic or unreasonable outcomes;
- insists on only dealing with the Headteacher on all occasions irrespective of the issue and the level of delegation in the school to deal with such matters;
- insists upon repeatedly pursuing a complaint when the outcome is not satisfactory to the complainant but cannot be changed, for example, if the desired outcome is beyond the remit of the school because it is unlawful.

5.4. For the purpose of this policy, harassment is the unreasonable pursuit of such actions as in 5.3 above in such a way that they:

- a) appear to be targeted over a significant period of time on one or more members of school staff
- b) cause ongoing distress to individual member(s) of school staff
- c) have a significant adverse effect on the whole/parts of the school community
- d) are pursued in a manner which can be perceived as intimidating and oppressive by the recipient. This could include situations where persistent demands and criticisms, whilst not particularly taxing or serious when viewed in isolation, have a cumulative effect over time of undermining confidence, well-being and health.
- e) Unnecessarily take up an inordinate amount of staff time, detracting staff members' ability to undertake legitimate school business.

6. THE SCHOOL'S ACTIONS IN CASES OF PERSISTENT OR VEXATIOUS COMPLAINTS OR HARASSMENT

6.1. We will ensure that the complaint is being, or has been, investigated properly according to the Trust Complaints Policy and Procedure.

- 6.2. Unless the behaviour exhibited is deemed extreme, in which case the school may move to implement restrictions immediately, the Headteacher of the Trust's school will consult with the Chief Executive Officer prior to issuing a warning to the complainant.
- 6.3. In the first instance the school will inform the complainant that his / her behaviour is considered to be becoming unreasonable / unacceptable and the reasons for that, and if it is not modified, action may be taken in accordance with this policy. This will be confirmed in writing (Model Letter 1)
- 6.4. If the behaviour is not modified the school will inform the complainant that some or all of the following restrictions will be enforced as necessary, having regard to the nature of the complainant's behaviour and the effect of this on the school community:
- a) inform the complainant in writing that his/her behaviour is now considered by the school to be unreasonable/unacceptable and, therefore, to fall under the terms of this policy (see Model Letter 2);
 - b) inform the complainant that all meetings with a member of staff will be conducted with a second person present and that notes of meetings may be taken in the interests of all parties (see Model Letter 2);
 - c) inform the complainant that, except in emergencies, all routine communication with the complainant to the school should be by letter only (see Model Letter 2);
 - d) (in the case of physical, or verbal aggression) take legal advice from the Trust's Legal services (services purchased by OWN Trust) and consider warning the complainant about being restricted in accessing the school site; or proceed straight to a temporary ban;
 - e) consider taking advice from the Trust's Legal Services on pursuing a case under Anti-Harassment legislation;
 - f) consider taking advice from the HR / Legal Services of the Trust about putting in place a specific procedure for dealing with complaints from the complainant, i.e. the complainant will not be able to deal directly with the headteacher but only with a third person to be identified by the Local Governance Committee of the school, who will investigate, determine whether or not the concern / complaint is reasonable or vexatious and then advise the Headteacher accordingly.
- 6.5. Any restriction that is imposed on the complainant's contact with the school will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases the restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions will be reviewed on a 3 monthly basis.

- 6.6. Thus, based on 6.4(f) legitimate new complaints may still be considered even if the person making them is, or has been, subject to the Policy for Managing Persistent or Vexatious Complaints and/or Harassment in Schools. However, the school will be advised by the HR / Legal Services of the Trust.
- 6.7. If a complainant's persistent complaining/harassing behaviour is modified and is then resumed at a later date within a reasonable period of time, the school may resume the process identified above at an appropriate level. In these circumstances advice may be sought from the HR/Legal Services of the trust.
- 6.8. Where the outcome of a complaint includes any formal process relating to staff regarding their conduct or capability, details will not be shared with the complainant. The Trust will protect the professional confidentiality of its employees regarding private employment matters, consistent with its legal obligations under their contract of employment.
- 6.9. OWN Trust schools reserve the right to:
- a) Cease to respond to complaints of a vexatious nature;
 - b) Bring legal action for harassment against the complainant;
 - c) Direct the complainant to the Education and Skills Funding Agency.

7. NEW COMPLAINTS FROM COMPLAINANTS WHOSE PREVIOUS BEHAVIOUR HAS BEEN TREATED AS ABUSIVE, VEXATIOUS OR PERSISTENT.

- 7.1. New complaints from people who have come under this policy will be treated on their merits. Initially the school's Headteacher will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint and advise the Chief Executive Officer accordingly. We do not support a "blanket policy" of ignoring genuine service requests or complaints where they are founded.
- 7.2. The fact that a complainant's behaviour is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know within the Trust.

8. REVIEW

- 8.1. The status of a complainant whose behaviour is judged to be unreasonably persistent or vexatious will be reviewed by the Chief Executive Officer and the Headteacher after three months and at the end of every subsequent three months within the period during which the policy is to apply.

8.2. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.

Appendix 1: MODEL LETTER 1:

INITIAL LETTER INFORMING A COMPLAINANT THAT HIS/HER BEHAVIOUR IS CONSIDERED TO FALL BELOW A REASONABLE/ ACCEPTABLE STANDARD RECORDED DELIVERY

Dear

This letter is to inform you that the school considers your actions in [describe actions, dates, behaviour] on..... when you to be unreasonable/unacceptable [delete as appropriate].

We would ask you to bear in mind the fact that such behaviour on a school site can be disruptive and distressing to pupils, staff and parents/carers [delete if behaviour complained of did not occur on school site e.g. persistent use of e-mail, verbally abusive telephone calls].

We are aware that you have raised some concerns and would advise you that these are usually dealt with most effectively through the Trust's Complaints Policy and Procedure.

At the moment we are dealing with these issues by [describe actions being taken to resolve concern].

Please note that the Trust's Policy for Dealing with Persistent or Vexatious Complaints/Harassment sets out standards of behaviour expected of all people in their dealings with Schools in the Trust. These include:

- behaving reasonably;
- treating others with courtesy and respect;
- resolving complaints using the Trust's Complaints Policy and Procedure;
- avoiding physical and verbal aggression at all times.

The Policy also indicates the steps that we may take if these standards are breached. These include:

- making special arrangements for meetings and communication with the school;
- considering restriction of access to the school premises;
- considering legal action.

I would ask that you allow school time to resolve the issues according to the correct procedures and would assure you that we shall take every step to move this process forward as quickly as possible.

Yours sincerely

Headteacher

Appendix 2: MODEL LETTER 2:

INFORMING A COMPLAINANT THAT HIS/HER BEHAVIOUR IS NOW CONSIDERED TO FALL UNDER THE TERMS OF THE POLICY FOR DEALING WITH PERSISTENT OR VEXATIOUS COMPLAINTS/ HARASSMENT RECORDED DELIVERY

Dear

You will recall that I wrote to you on [insert date] telling you that I felt your behaviour was unreasonable.

I am now writing to inform you that in view of your behaviour on [date], when you [describe actions/behaviour] it has been decided that the Trust's Policy for Managing Persistent or Vexatious Complaints/Harassment will apply from the date of this letter.

In the circumstances I have made the following arrangements for your future contact with the school:

[*Delete A or B as applicable]

*A For the period until (identify date – no longer than 1 year) when a review of subsequent behaviour is undertaken, should you wish to meet with any member of staff:

- a) all routine communication, including any request for a meeting between you and the school, will be by letter only. Letters from you need to be addressed to at the school address; email correspondence will not be responded to;
- b) an appointment will be arranged and confirmed in writing as soon as possible;
- c) a third party from the school will be present;
- d) in the interests of all parties, formal notes of this meeting may be made.

*B For the period until (identify date – no longer than 1 year) when a review of subsequent behaviour is undertaken, all meetings arising from any written communication with the school will not be conducted by a member of staff but will be conducted by representing the school:

- a) all routine communication, including any request for a meeting between you and the school, will be by letter only. Letters from you need to be addressed to at the school address; email correspondence will not be responded to;
- b) an appointment will be arranged and confirmed in writing as soon as possible;
- c) a third party will be present;

d) in the interests of all parties, formal notes of this meeting may be made.

These arrangements do not apply to any emergency involving [insert name of pupil] – in which case you should contact the school in the usual way.

While these arrangements are in place, with respect to normal access to information available on parents' evenings, this will be provided in a summary written report. These arrangements take effect straight away. If you wish to make a representation about the contents of this letter, which may include any expressions of regret on your part and any assurances that you are prepared to give about your future good conduct, you can do so by writing to me at the school by [state ten working days from the date of the letter].

If on receipt of your comments I consider that the arrangements outlined above should continue, you will be supplied with details of how to review the circumstance of your case.

I do hope that the difficulties we are currently experiencing can soon be resolved.

Yours sincerely

Headteacher