

ABUSIVE, PERSISTENT, FRIVOLOUS OR VEXATIOUS COMPLAINTS AND COMPLAINANTS POLICY

Created: March 2017

Updated: November 2023

This policy is to be read in conjunction with BPA complaints procedures

1.0 INTRODUCTION

- 1.1 Dealing with a complaint is usually a straightforward process, but in **a minority** of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have a significant impact on school resources. This can happen either while their complaint is being investigated, or once the school has finished dealing with the complaint.
- 1.2 We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner.
- 1.3 We do not expect staff to tolerate unacceptable behaviour towards them. Unacceptable behaviour includes behaviour which is abusive, offensive, or threatening and may include:
 - Using abusive or foul language on the telephone.
 - Using abusive or foul language face to face.
 - Shouting at or denigrating school staff.
 - Disregarding the Home School Agreement.
 - Berating office staff because of a disagreement with the complaint outcome.
- 1.4 We will take action to protect staff from such behaviour. If a complainant behaves in a way which is unreasonably persistent, frivolous or vexatious, we will follow this policy.
- 1.5 Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.
- 1.6 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 him or her to be labelled vexatious or unreasonably persistent.

2.0 AIM OF THIS POLICY

- 2.1 The aim of this policy is to contribute to our overall aim of dealing with all complainants in ways which are demonstrably consistent, fair, and reasonable for both parents and school staff.
- 2.2 It sets out how we will decide which complainants will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff and the governing body.

3.0 DEFINITIONS

- 3.1 We have adopted the Local Government Ombudsman's (LGO) definition of ***"unreasonable complainant behaviour"*** and ***"unreasonably persistent complaints"***.
- 3.2 We define unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contact with BPA, hinder our consideration of their or other people's complaints or our services to pupils. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 3.3 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.
- 3.4 Generally accepted meaning of the following words:-
- Frivolous- trivial, trifling or futile, not serious.
 - Vexatious- causing or intending to cause irritation or distress; not having sufficient grounds for action and seeking only to cause annoyance.
 - Persistent- continuing firmly or obstinately in an opinion or course of action in spite of difficulty or opposition.

4.0 AN UNREASONABLY PERSISTENT, FRIVOLOUS AND/OR VEXATIOUS COMPLAINANT

Features of an unreasonably persistent and/or vexatious complainant include the following: (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category).

Complainant may:

- 4.1 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).
- 4.2 refuse to specify the grounds of a complaint despite offers of assistance.
- 4.3 refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- 4.4 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 (e.g. parking outside the school).
- 4.5 refuse to accept that issues are not within the power of BPA to investigate, change, or influence (e.g. parking outside the school) insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice.
- 4.6 make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced.
- 4.7 make an unreasonable amount of contact with us, by any means, in relation to a specific complaint or complaints.

- 4.8 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, faxes, telephone calls or emails).
- 4.9 fail to identify clearly the substance or precise issues which they require to be addressed.
- 4.10 complain about trivial matters to an extent out of proportion to their significance.
- 4.11 harass, verbally abuse or otherwise seek to intimidate staff dealing with their complaint, by use of foul or inappropriate language or by the use of offensive and racist language.
- 4.12 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.
- 4.13 introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on.
- 4.14 change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
- 4.15 deny statements he/she made at an earlier stage in the complaint process.
- 4.16 electronically records meetings and conversations without the prior knowledge and consent of the other person involved.
- 4.17 adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the school, but at the same time with the council, a Member of Parliament, other councils, elected councillors of this and other councils, the council's independent auditor, the Standards Board, the police, solicitors, the Local Government Ombudsman, the ESFA and Ofsted.
- 4.18 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.
- 4.19 refuse to accept solutions to concerns or complaints when they are offered.
- 4.20 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.
- 4.21 persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons.
- 4.22 refuse to accept documented evidence as factual.
- 4.23 complain about or challenge an issue based on an historic and irreversible decision or incident.
- 4.24 refuse to comply with the complaints procedure.
- 4.25 generate a significant burden on the school in terms of time or cost.

5.0 APPLYING THE POLICY

- 5.1 The complainant will be sent a copy of this policy.
- 5.2 When the decision has been taken to apply this policy to a complainant, BPA will contact the complainant in writing to inform them and explain:
- Why we have taken the decision.
 - What action we are taking/what restrictions are being imposed.
 - The duration of the restrictions.
 - The review process of this policy.
 - The right of appeal to the Chair of Governors.
 - The right of the complainant to contact the ESFA about the fact that they have been treated as a vexatious/persistent complainant.
- 5.3 Where a complainant continues to behave in a way which is unacceptable, the HT may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- 5.4 Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, pupils or other parents, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of this.

6.0 RESTRICTIONS

- 6.1 A restriction will be placed on anyone who is deemed to be an abusive, persistent, frivolous or vexatious complainant.
- 6.2 Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
- Banning the complainant from making contact by telephone except through a third party e.g. solicitor/councillor/friend acting on their behalf.
 - Banning the complainant from sending emails to BPA, insisting they only correspond by letter.
 - Requiring contact to take place with one named member of staff only.
 - Restricting telephone calls to specified days/times/duration.
 - Requiring any personal contact to take place in the presence of an appropriate witness.
 - Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence).

7.0 APPEALING THE DECISION

- 7.1 If the Complainant is unhappy with the decision to close an abusive, persistent, frivolous or vexatious complaint, they may write to the Chair of Governors to ask for the decision to be reviewed.
- 7.2 The complainant must state in the letter to the CoG why they feel their complaint does not fall under the abusive, persistent, frivolous or vexatious procedures.
- 7.3 The Chair of Governors will write to the Complainant with the outcome of the review within **ten school days** of the date that the letter from the Complainant seeking the review was received.

8.0 NEW COMPLAINTS FROM COMPLAINANTS WHO ARE TREATED AS ABUSIVE, PERSISTENT, FRIVOLOUS OR VEXATIOUS

- 8.1 New complaints from people who have come under this policy will be treated on their own merits. The Headteacher will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine complaints where they are founded.
- 8.2 The fact that a complainant 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 school.

9.0 REVIEW

- 9.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Head Teacher after three months and at the end of every subsequent three months within the period during which the restriction is to apply.
- 9.2 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.

10.0 REFERRING UNREASONABLY ABUSIVE, PERSISTENT, FRIVOLOUS OR VEXATIOUS COMPLAINANTS TO THE ESFA

- 10.1 In some cases, relations between schools and unreasonably persistent or vexatious complainants break down completely while complaints are under investigation, and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs the ESFA may be prepared to consider a complaint before the procedure has run its course.

11.0 RECORD KEEPING

- 11.1 Adequate records will be retained by the appropriate people of the details of the case and the action that has been taken. The Head Teacher will retain a record of:
- The name and address of each individual who is treated as abusive, persistent, frivolous or vexatious.
 - When the restriction came into force and ends.
 - What the restrictions are.
 - When the relevant parties were advised.