

WHITCHURCH COMMUNITY PRIMARY SCHOOL HABITUAL OR VEXATIOUS COMPLAINANTS POLICY.

1. Introduction.

- 1.1 This policy applies to all complainants, and identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be 'habitual or vexatious' and ways of responding to these situations.
- 1.2 In this policy the term habitual means 'done constantly or as a habit'. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. These terms are used in this policy to clarify that we are attempting to deal with persons who seek to be disruptive or whose requests cause disproportionate and repeated efforts on behalf of the school staff and governors by pursuing an unreasonable course of conduct.
- 1.3 The term complainant in this policy includes requests made under the Freedom of Information Act 2000, the Data Protection Act 1998, and the Environmental Information Regulations 2004, and reference to the complaints procedure is, where relevant, to be interpreted as meaning requests under those Acts.
- 1.4 Habitual and / or vexatious complainants can be a problem for School staff and Governors. The difficulty in handling such complaints can place a strain on time and resources. Whilst the School endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

2. Scope of Policy.

- 2.1 This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints under the School's complaints procedures. However it is not necessary for a complaint to have become a formal complaint before this policy can be invoked. Judgement and discretion must be used in applying the criteria to identify potential habitual or vexatious complainants and in deciding on the appropriate action to be taken in specific cases.
- 2.2 The policy should only be invoked following careful consideration of all the issues by the Head and after authorisation has been provided by a panel of at least two Governors. If the complaint is principally or to a reasonable degree against the Chairman then authorisation will be

from a 3-person panel of the Governing body. The decision must be reported to the full governing body.

- 2.3 Provided that no individual may undertake a role in authorisation in this procedure if he / she has had an involvement with the complaint.

3. Definition of Habitual or Vexatious Complainant.

- 3.1 Each case will be viewed individually and decided on its merits. However, a complainant (and / or anyone acting on their behalf) may be deemed to be habitual or vexatious if previous or current contact with them shows that they may meet any or all of the following criteria, dependent upon degree.

3.2 Where complainants:

- (a) Persist in pursuing a complaint where the school's complaints procedure has been fully and properly implemented and exhausted .
- (b) Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response. Care must be taken not to discard new issues which are significantly different from the original complaints. These might need to be addressed as separate complaints.
- (c) Are unwilling to accept documented evidence of action
- (d) Are unwilling to accept that the Governing body has reached a final decision on a chosen course of action.
- (e) Deny receiving an adequate response in spite of correspondence specifically answering their questions.
- (f) Persist in pursuing a matter when they have already exhausted other statutory routes of appeal
- (g) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help them specify their concerns.
- (h) Refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- (i) Continue to seek to pursue a complaint where the concerns identified are not within the remit of the Governing body to investigate.

- (j) Focus on a trivial matter to an extent which it is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a 'trivial' matter can be subjective and careful judgements must be used in applying this criteria.
- (k) Have in the course of addressing a complaint, had an excessive number of contacts with the School placing unreasonable demands on staff time. A contact may be in person or by telephone, letter, e-mail or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.
- (l) Have threatened or used physical violence towards staff at any time – this will, in itself cause personal contact with the complainant and / or their representatives to be discontinued and the complaint will, thereafter, only be continued through written communication. All such incidences will be documented.
- (m) Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with the complaint. Staff recognise, however, that complainants may be sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. They will document all instances of harassment, abusive or verbally aggressive behaviour.
- (o) Are known to have recorded meetings or face-to-face / telephone conversations without the prior knowledge and consent of other parties involved.
- (p) Make unreasonable demands on the school / complainant relationships and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Complaints procedure or normal recognised practice.
- (q) Combinations of some or all of these.
- (r) In conjunction with any of the above, the complainant publishes matters that directly relate to the school, its pupils, parents/carers or staff, under circumstances where this may be detrimental to those parties, when the material published is not factual, objective and balanced, to include the use of social networking media.

4. Strategy for Dealing with Habitual or Vexatious Complainants.

- 4.1 Where complainants have been identified as habitual or vexatious under the scope of this policy, taking account of the above criteria, the Authorising Officers (Head and designated Governors) will determine what action to take. The Clerk will implement such action and will notify complainants, in writing, of the following:
- (a) That the decision has been taken to apply this policy to them and why.
 - (b) What action will be taken and what it means for their future contact with the School
 - (c) How long the restrictions will last or how they will be reviewed in line with the review procedure under section 5 below.
- 4.2 This notification may be copied for the information of others already involved in the complaint or matters closely related to it, e.g. Local Education Authority (“LEA”) officers, staff, Members of Parliament. A record must be kept, including on the complaints database, for future reference of the reasons why a complainant has been classified as habitual or vexatious.
- 4.3 It may be decided to decide to deal with complainants in one or more of the following ways:
- (a) Withdraw contact with the complainant either in person, by telephone, by email, by fax, by letter or any combination of these, provided that at least one form of contact is maintained. If staff are to withdraw from any form/s of contact with a complainant there will be an agreed statement available for them to use at such times.
 - (b) To restrict contact to liaison through a designated officer/Governor.
 - (c) Notify the complainant in writing that the Governing body has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should be notified that any form of contact, either orally or in writing, in relation to their complaint, or any further complaints relative to the same period of time, or the same or similar issues as an earlier complaint, is at an end, and that further contact received will be recorded and filed, but not answered.

- (d) Temporarily suspend, for a period to be specified to the complainant, all contact with the complainant, provided that the Governing body shall not, without the consent of the LEA, withdraw or not provide any services to which the complainant or his / her family are entitled to receive.
- (e) In extreme circumstances inform the complainant that the School reserves the right to pass unreasonable or vexatious complaints to the LEA's Legal Services and may result in legal action against the complainant.

5. Review Decisions and Withdrawing 'Habitual or Vexatious' Status.

- 5.1 Once the decision has been taken to apply this policy to the complainant that decision must be regularly reviewed, and, where appropriate, withdrawn at a later date. Such action may be appropriate where a complainant subsequently demonstrates a more reasonable approach.
- 5.2 The Head and designated Governors will review their application of this policy to a complainant at least every six months. In addition, they will review that decision on receipt of a request to do so from the person so categorised, provided such a request has not been received in the preceding six months.
- 5.3 If the complainant is not satisfied with the decision reached he may request that the decision is reviewed by the Governing body, which will appoint an appeal panel of 3 to review the decision. Such a request for a review may only be received once in any six month period. Notice of that decision will be given, as far as is practical, within 15 working days of receipt of the request.
- 5.4 The panel on review may either withdraw the application of this policy to a complainant or amend the strategy being applied to that person.
- 5.5 If the panel considers it appropriate to withdraw the application of this policy to a complainant, normal contact with the complainant and application of the School's complaints procedure will be resumed. Notice of that decision will be supplied to the person or persons in writing forthwith.
- 5.6 Copies of all decisions relating to the application of this policy to a complainant will be sent to the clerk who will hold and maintain a central register of such decisions.

6. Monitoring Arrangements.

- 6.1 Statistical information will be presented annually to the Governing body with details of complainants who are categorised as habitual and / or vexatious.

7. General.

- 7.1 Nothing in this policy affects an individual's statutory rights.
- 7.2 Governors may be approached by individuals who have been identified by them as habitual / vexatious complainants. In such cases Governors will have a prepared statement for engagement and they may, if they so wish ask officers to write to those individuals on their behalf, to explain that the Governor will not be able to deal with the particular issue whilst they continue to be a vexatious /habitual complainant.