

Kings Langley School



HABITUAL OR VEXATIOUS COMPLAINANTS POLICY

(Guidance and Procedures)

REVIEW DATE JAN 2016

Character Development: Commitment to Equality and Diversity

This school is founded on a set of fundamental values designed to enable all students and adults connected with our community to flourish and succeed, regardless of background or circumstances. We are determined to be open to people, places, methods and ideas—and as such, equality and diversity are at the heart of everything we do. Our continued dedication to social justice and equality of opportunity is embodied in everything we do.

We are creating an **inclusive** school community where:

- People are treated with dignity and respect
- Inequalities are challenged
- We anticipate, and respond positively to, different needs and circumstances so that everyone can achieve their potential
- We value diversity and we recognise that different people bring different perspectives, ideas, knowledge and culture, and that this difference brings great strength.
- We believe that discrimination or exclusion based on individual characteristics and circumstances, such as age; disability; caring or dependency responsibilities; gender or gender identity; marriage and civil partnership status; political opinion; pregnancy and maternity; race, colour, caste, nationality, ethnic or national origin; religion or belief; sexual orientation; socio-economic background; trade union membership status or other distinctions, represents a waste of talent and a denial of opportunity for self-fulfilment.
- We recognise that patterns of under achievement at any level and differences in outcomes can be challenged through positive intervention activities designed to bridge gaps.
- We respect the rights of individuals, including the right to hold different views and beliefs. We will not allow these differences to be manifested in a way that is hostile or degrading to others.
- We expect commitment and involvement from all our staff, students, partners and providers of goods and services in working towards the achievement of our vision.

Introduction

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.

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'.

The terms used in this policy are to clarify that the school is attempting to deal with persons who seek to be disruptive or whose requests cause disproportionate and repeated efforts by the school in pursuing an unreasonable course of conduct.

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.

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. This may, for example, be where the complaint is unfounded or where a reasonable person would agree there is insufficient or limited evidence.

Scope of Policy.

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 been lodge with the school for any length of time 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.

The policy should only be invoked following careful consideration by the Head and after approval by the Chair of Governors. If the complaint is principally (or to a reasonable degree) against the Chair then authorisation will be from a 3-person panel of the Governing body. The decision must be reported to the full governing body provided that no individual may undertake a role in authorisation in this procedure if he / she has had an involvement with the complaint.

Definition of Habitual or Vexatious Complainant.

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.

Where complainants:

- (a) Persist in pursuing a complaint where the school's complaints procedure has been fully and properly implemented and exhausted (e.g. where several responses have been provided).
- (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 that 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 that they wish to be investigated, despite reasonable efforts to help them specify their concerns.
- (h) Continue to seek to pursue a complaint where the concerns identified are not within the remit of the Governing body to investigate.
- (i) 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.
- (j) 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.
- (k) 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. The Trust has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as a vexatious complainant and will receive written confirmation of the same from the appropriate Head of Service. This will also inform the complainant of the action to be taken with regard to any further communication received.
- (l) 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.

- (n) Are known to have recorded meetings or face-to-face / telephone conversations without the prior knowledge and consent of other parties involved.
- (o) Make unreasonable demands on the "customer / 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.
- (p) Fail to accept suitable evidence or reasonable objective testimony provided by the school because it does not agree with their interpretation of a particular issue. It should be remembered that the school usually comes to a decision on reasonable "balance of probabilities" resulting from an effective investigation.

Strategy for Dealing with Habitual or Vexatious Complainants.

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 Chair) will determine what action to take. The Clerk will implement such action and will notify complainants, in writing, of the reasons why they have been classified as habitual or vexatious and what action will be taken. They will also be notified of the review procedure.

This notification may be copied for the information of others already involved in the complaint or matters closely related to it, e.g. Herts CC officers, staff or 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.

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 a telephone conversation 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.
- (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 acknowledged 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 Trust, 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 Trust's Legal Services and may result in legal action against the complainant.

Review Decisions and Withdrawing 'Habitual or Vexatious' Status.

Once a complainant has been determined as habitual or vexatious, such status needs to 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 or submits a further

complaint for which the normal complaints procedures would appear appropriate. Complainants also have an opportunity to have their habitual or vexatious status withdrawn.

The Head, and Chair (or panel), will review their decisions to categorise a complainant as habitual or vexatious 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.

If the person categorised as habitual or vexatious is not satisfied with the decision reached, they may request that the Governing body review the decision. The Governing Body 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 20 working days of receipt of the request. The panel on review may either withdraw the categorisation of a person as habitual or vexatious or amend the strategy being applied to that person.

If it considers it appropriate to withdraw the status of habitual or vexatious 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 forthwith.

Copies of all decisions relating to the categorisation of a person as a habitual or vexatious complainant will be sent to the clerk who will hold and maintain a central register of such decisions.

Monitoring Arrangements.

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

General.

Nothing in this policy affects an individual's statutory rights.

Governors may be approached by individuals who have been identified by the school as habitual / vexatious complainants. In such cases 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