

Vexatious Complaints Procedure

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Related Policies

- Complaints Policy

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About this procedure

This policy is about the management of abusive, persistent and/or vexatious complainants. It sets out how Ascend Learning Trust and its schools will deal with complainants that fall within the scope of this definition.

It is considered that all complainants have the right to have their concerns examined in line with the relevant complaints procedure. In most cases, dealing with complaints will be a straightforward process; however in a minority of cases, the complainant may act in a manner that is deemed unacceptable.

They may act in a way that is considered abusive, unreasonably persistent or vexatious and by doing so it may hinder the Trust's ability to investigate their complaint or the complaints of others. This behaviour may occur at any time before, during or after a complaint has been investigated.

The time spent on dealing with all complaints should be proportionate to the nature of the complaint and consistent with the outcome that is being sought being realistic and achievable.

How is unreasonable complaint behaviour defined?

It should be noted that raising a complaint about a school within the Trust or the Trust itself does not in itself constitute unreasonably persistent behaviour and neither do complainants who escalate through all stages of the relevant complaints procedure or those who express criticism about the complaints process itself.

This may include one or two isolated incidents, as well as unreasonably persistent behaviour.

The Trust has used the Local Government Ombudsman's definition and the identified characteristics for unreasonable or unreasonably persistent complainants:

- *“unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints”.*

The Trust have used the ICO guidance to define vexatious as:

- “unjustified, inappropriate or improper use of a formal procedure”.

Examples of unreasonably persistent behaviour:

(this list is not exhaustive, nor does one single characteristic on its own imply that the person will be considered as being in this category)

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of the Trust's jurisdiction or within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various members of staff and/or organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous Trust staff, or detailed letters every few days, and expecting immediate responses.

- Submitting repeat complaints with minor additions/variations, which the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

Examples of abusive and/or vexatious complainants

The Trust will take steps to protect its staff from members of the public who are behaving in a way which is considered abusive and/or vexatious. This may include physical or verbal abuse and could include the following (however this list is not exhaustive):

- Speaking to the member of staff in a derogatory manner which causes offence.
- Swearing, either verbally or in writing despite being asked to refrain from using such language.
- Using threatening language towards Trust staff which provokes fear.
- Repeatedly contacting a member of staff regarding the same matter which has already been addressed

Managing unreasonable complainant behaviour

This policy may be invoked if the Trust considers that a complainant has behaved in a manner which is deemed unreasonable (see above). The Trust may take any actions against a complainant that it considers to be reasonable and proportionate in the circumstances.

Types of actions the Trust may take include:

- Where the complainant tries to reopen an issue that has already been considered through one of the Trust's complaints procedures, they will be informed in writing that the procedure has been exhausted and that the matter is now closed
- Where a decision on the complaint has been made, the complainant should be informed that future correspondence will be read and placed on file, but not acknowledged, unless it contains important new information
- Limiting the complainant to one type of contact (for example telephone, letter, email, etc.)
- Placing limits on the number and duration of contacts with staff per week or month
- Requiring contact to take place with a named member of staff and informing the complainant that if they do not keep to these arrangements, any further correspondence that does not highlight any significantly new matters will not necessarily be acknowledged and responded to, but will be kept on file
- Assigning one member of staff to read the complainant's correspondence, in order to ensure appropriate action is taken
- Offering a restricted time slot for necessary calls to specified dates and times
- Requiring any face to face contacts to take place in the presence of a witness and in a suitable location

Matters to take into account before taking action

Before taking a decision to invoke this policy consideration should be given to whether any further action is necessary, such as:

- Consideration about whether it is appropriate to convene a meeting with the complainant and a member of the Executive Team in order to seek a mutually agreeable resolution
- If it is known or suspected that the complainant has any special needs then consider offering an independent advocate who may assist the complainant with their communication with the Trust
- Where more than one person is being contacted by the complainant, agree an approach; and designate a lead to co-ordinate the Trust's response.

Staff must be satisfied before taking any action as defined by this policy that the complainant's individual circumstances have been taken into account including such issues as age, disability, gender, race and religion or belief.

Imposing restrictions

Only the Executive Team can agree to impose restrictions. This must be done in consultation with the CEO who will communicate to the complainant either by phone or in writing to explain why this behaviour is causing concern, and ask them to change this behaviour. The CEO will explain what actions the Trust may take if the behaviour does not change.

If the complainant continues with the unreasonable behaviour the CEO will consult with the Board of Trustees about whether it is necessary to take appropriate action by invoking this policy (see 'Actions').

When the decision has been taken to apply this policy to a complainant, the CEO will contact the complainant in writing (and/or as appropriate) to explain:

- why this decision has been taken
- what action the Trust will be taking
- the duration of that action
- the review process of this policy

and

- the right of the complainant to contact the Board of Trustees about the fact that they have been treated as a persistent/vexatious complainant.

Any restriction that is imposed on the complainant's contact with the Trust 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 restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

If the complainant continues to behave in a way which is deemed unacceptable then the CEO, in consultation with the Board of Trustees who will monitor, may decide to refuse all contact with the complainant and cease any investigation into his or her complaint.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the CEO 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 that action.

New complaints from those who have been treated as being abusive, vexatious and/or unreasonably persistent complainants.

Any new complaints received from complainants who have come under this policy will be treated on their merits. The Trust does not support a blanket ban on genuine complaints simply because restrictions may be imposed upon that complainant.

Review

The CEO and Trust Board will review any restrictions which are imposed upon the complainant after three months and at the end of every subsequent three months within the period during which the policy is to apply.

Should the decision be taken to extend the period of restriction, the complainant will be advised in writing how the Trust plans to go about this and that the decision to restrict contact will be put in place for a further specified period (for example six months). The outcome of any subsequent review will be communicated to the complainant, outlining if the restrictions will continue to apply and if so why.

If at the end of the restricted period it is considered that the complainant's behaviour is no longer deemed to be unreasonable, the Trust will confirm this in writing advising that the restrictions have now been lifted.

Ceasing Contact with a Complainant

There may be occasions where the relationship between the Trust and unreasonably persistent or vexatious complainants breaks down completely. This may even be the case 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 Trust will advise the complainant that they may approach the Board of Trustees who may be prepared to consider a complaint before the procedure has run its course.

Record Keeping

The CEO will keep a record of all complainants who have been treated as being unreasonably persistent, abusive and/or vexatious in accordance with this policy. This will include details of why the policy was invoked, what restrictions were imposed and for what period of time.

Anonymised information will be reported in the complaints annual report to the Trust Board.

Actions

Any actions taken should be proportionate to the nature and frequency of the complainant's current contacts. The following options may be suitable, taking the complainant's behaviour and circumstances into account. The objective is to

manage the complainant's unreasonable behaviour in such a way that their complaint can be concluded quickly, without further distractions.

Options include:

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for necessary calls.
- Limiting the complainant to one medium of contact (telephone, letter, email etc).
- Requiring the complainant to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness and in a suitable location.
- Refusing to register and process further complaints about the same matter.

Where a decision on the complaint has been made, you can tell the complainant that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. A designated officer should be identified who will read future correspondence.