Persistent or Vexatious Complaints Policy

2020

Frequency of Review:	Every 2 years
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Adopted by the Board of Empower Trust	

Approved by the Trust Board May 2020

INTRODUCTION

The Headteachers of Empower Trust schools deal with specific complaints as part of their day-to-day management role in accordance with the Complaints Policy. The majority of complaints are handled in an informal manner and are resolved quickly, sensitively and to the satisfaction of the complainant. However, there are occasions when complainants behave in an unreasonable manner when raising and/or pursuing concerns. The consequences are that the actions of the complainants begin to impact negatively on the day-to-day running of the school and directly or indirectly the overall wellbeing of the children or staff in the school. In these exceptional circumstances the school may take action in accordance with this policy.

Empower Trust is committed to dealing with all complaints equitably, comprehensively, and in a timely manner.

Empower Trust does not expect staff to tolerate unacceptable behaviour by complainants or any service user. 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
- Sending multiple emails
- Leaving multiple voicemails

Empower Trust will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy.

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.

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.

AIMS OF POLICY

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.

PARENTS' EXPECTATIONS OF THE SCHOOL

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

a) regularly communicate to parents/carers in writing:

(i) how and when problems can be raised with the school;

(ii) the existence of the school's complaints procedure, and

(iii) the existence of the Policy for Dealing with Persistent or Vexatious Complaints;

b) respond within a reasonable time;

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 school's complaints procedure, other policies and practice and keep complainants informed of progress towards a resolution of the issues raised.

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

The school can expect parents/carers/members of the public who wish to raise problems 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) avoid any use, or threatened use, of violence to people or property;

d) avoid 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 School's Complaints Policy.

WHO IS A PERSISTENT COMPLAINANT?

For the purpose of this policy, a persistent complainant is 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. Such behaviour may be characterised by:

a) actions which are obsessive, persistent, harassing, prolific, repetitious;

b) prolific correspondence or excessive e-mail or telephone contact about a concern or complaint;

c) uses Freedom of Information requests excessively and unreasonably

d) an insistence upon pursuing unsubstantial complaints and/or unrealistic or unreasonable outcomes;

e) an insistence upon pursuing complaints in an unreasonable manner;

f) an insistence 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;

g) an insistence 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.

For the purpose of this policy, harassment is the unreasonable pursuit of such actions as in (a)to (g) 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 and/or

b) cause ongoing distress to individual member(s) of school staff and/or

c) have a significant adverse effect on the whole/parts of the school community and/or

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.

Features of an unreasonable persistent and /or vexatious complainant include the following list (please note: the list is not exhaustive, nor does one single feature on it's own imply that the person will be considered as being in this category):

An unreasonably persistent and/or vexatious complainant may:

- 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 Trust to investigate, change or influence (examples could be a complaint about something that is the responsibility of another organisation)
- 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, faxes, 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 foul or inappropriate language or by the use of offensive and racist language
- 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 involved
- adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Trust, but at the same time with a Member of Parliament, other Schools/Colleges, elected councillors of Local Authorities, the Local Authority's independent auditor, the Standards Board, the police, solicitors, Ofsted and the Local Government Ombudsman
- 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
- 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 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
- combine some or all of these features

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

In the first instance the Headteacher will consult with the Chief Executive Officer (CEO) prior to issuing a warning to the complainant. The Headteacher will then verbally inform the complainant that his / her behaviour is considered to be becoming unreasonable / unacceptable and, if it is not modified, action may be taken in accordance with this policy.

This will be confirmed in writing (Model Letter 1) and counter signed by the CEO

If the behaviour is not modified the Headteacher, in consultation with the CEO, will take some or all of the following actions 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, countersigned by the CEO);

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, countersigned b the CEO);

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, countersigned by the CEO);

d) (in the case of physical, or verbal aggression) take advice from HR / Legal Services (services purchased by the Trust Board) and consider warning the complainant about being banned from the school site; or proceed straight to a temporary ban;

e) consider taking advice 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 governing body of the school or CEO, who will investigate, determine whether or not the concern / complaint is reasonable or vexatious and then advise them accordingly.

Thus, based on(f), legitimate new complaints may still be considered even if the person making them is, or has been, subject to the Policy for Dealing with Persistent or Vexatious Complaints. However, the school will be advised by the HR / Legal Services of the Trust.

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.

Where a complainant continues to behave in a way which is unacceptable, the Chief Executive, in consultation with the Chair of Trust Board, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

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

PHYSICAL OR VERBAL AGGRESSION

Empower Trust will not tolerate any form of physical or verbal aggression or personal harassment against school staff. If staff are subject to this type of aggression the Trust may:

- Prohibit the individual from entering the school site, with immediate effect;
- Inform the individual that communication with them will cease other than in an emergency
- Prosecute under Anti-Harassment legislation.

REVIEW

The status of a complainant 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.

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.

The Trust Board will review as appropriate, and at a minimum once in a school year, any sanctions applied in the context of this policy.

Record Keeping

Adequate records will be retained by the Headteacher of the details of the case and the action that has been taken. The Headteacher will retain a record of

- The name and address of each service users who is treated as abusive, vexatious or persistent
- When the restriction came into force and ends
- What the restrictions are
- When the service user and departments were advised

The Chief Executive Officer will also keep records.

The Trust Board will be provided with an annual report giving information about service users who have been treated as vexatious/persistent as per this policy.

Approved by the Trust Board May 2020

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 School's Complaints Policy.

At the moment we are dealing with these issues by [describe actions being taken to resolve concern]. Please note that the School's Policy for Dealing with Persistent or Vexatious Complaints sets out standards of behaviour expected of all people in their dealings with the School. These include: behaving reasonably; treating others with courtesy and respect; resolving complaints using the School's Complaints Policy; 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 a ban from 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 Chief Executive Officer

MODEL LETTER 2:

INFORMING A COMPAINANT 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 School's Policy for Dealing with Persistent or Vexatious Complaints 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 foreseeable future, should you wish to meet with any member of staff, I would ask you to note:

(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 confirmed in writing within 10 working days;

(c) a third party from the school will be present;

(c) in the interests of all parties, formal notes of this meeting will be made.

*B. For the foreseeable future, 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. I would ask you to note:

(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 confirmed in writing within 10 working days;

(c) a third party will be present;

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

Exceptionally, 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 are effective immediately. 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 a circumstance of your case. I do hope that the difficulties we are currently experiencing can soon be resolved.

Yours sincerely

Headteacher Chief Executive Officer