

Vexatious and Malicious Complaints

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Introduction

The Headteacher and staff in our school deal with specific complaints as part of their day-to-day management of the school in accordance with the School's Complaints Procedure. 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 on the overall well-being of the children or staff in the school. In these circumstances, the school may act in accordance with this policy.

What is a vexatious complaint?

A vexatious complaint is one that is pursued, regardless of its merits, solely to harass, annoy or subdue somebody; something that is unreasonable, without foundation, frivolous, repetitive, burdensome or unwarranted.

In identifying vexatious complaints, school leaders must be careful to:

- Distinguish between complainants who are raising genuine concerns; and
- Recognise when people are being difficult.

This can be achieved by recognising that complainants may often be aggrieved, frustrated or have other reasons for their behaviour; the focus must be on careful consideration of the merits of the case rather than the attitude of the complainant.

However, a complainant may be regarded as vexatious where they:

- Persist in pursuing a complaint which has already been investigated by another or the same person and provides no new or material information.
- Seek to prolong contact by continually changing the substance of a complaint or by continually raising further concerns or questions whilst the complaint is being addressed.
- Fail to clearly identify the substance of a complaint, or the precise issues which may need to be investigated despite reasonable efforts to assist them.
- Complain solely about trivial matters to an extent which is out of proportion to their significance.
- Make excessive contact with the school or seek to impose unreasonable demands or expectations on resources, such as responses being provided more urgently than is reasonable or necessary.
- Operate a scatter-gun approach by lodging the same complaint in parallel with several bodies for investigation.

What is a malicious complaint?

A malicious complaint is one that is made with the intention of causing harm, for example:

- Deliberately seeking to defame somebody and raising a complaint with intent;
- Through lying or sensationalising an issue or incident in the knowledge that this will cause harm;
- Through knowingly basing a complaint on rumour and gossip with the intent of causing harm.

A malicious complaint is defined as one:

- That the investigation has shown to be without foundation; and/or
- Where the investigation evidence demonstrates that the complainant knowingly lied or misled the investigator and
- Where there is sufficient evidence to demonstrate this at a disciplinary hearing on the basis of the balance of probabilities.

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What is considered to be harassment?

For the purpose of this policy, harassment is the unreasonable pursuit of actions or complaints in such a way that they:

- Appear to be targeted over a significant period of time on one or more members of school staff;
- Cause ongoing distress to individual members of school staff;
- Have a significant adverse effect on the whole/parts of the school community;
- Are pursued in a manner which can be perceived as intimidating and oppressive by the recipient (this includes situations where persistent demands or criticism, whilst not particularly serious in isolation, have a cumulative effect of undermining confidence, health and well-being).

Where a complainant tries to re-open the issue with the school after the School's Complaints Procedure has been fully exhausted and the school has done everything it reasonably can in response to the complaint, the Headteacher will inform the complainant in writing that the matter is closed.

Actions in cases of vexatious or malicious complaints or harassment

- We will take every reasonable step to address the complainant's concerns.
- We will maintain our role as objective arbiters throughout the process.

If the complainant continues to contact the school in a vexatious manner, the school will inform the complainant in writing that their behaviour is now considered to be unreasonable by the school, and if not modified, action may be taken in accordance with the terms of this policy.

The following actions may be taken, as necessary, having regard to the nature of the complainant's behaviour and the effect of this on the school community. The complainant may be:

- given a limit on the number of times they can contact the school, such as a fixed number per term;
- given a single point of contact for all communication with the school, except in emergencies, e.g. via a single email address;
- informed that all meetings with a member of staff will be conducted with a third person, nominated by the Chair of Governors, present and that notes of meetings may be taken in the interests of all parties;
- asked to engage a third party on their behalf;
- informed that they may only deal with the Headteacher or member of staff via a third party, to be identified by the Chair of Governors, who will investigate and determine whether the concern/complaint is reasonable or vexatious and advise the Headteacher accordingly.

The school reserves the right to cease responding to the complainant when:

- all reasonable steps have been taken to address the complainant's concerns;
- a clear statement of the school's position and options open to the complainant have been provided.

The complainant will be informed of the school's intention to stop responding to communications. Legitimate new complaints may still be considered, even if the person making them is, or has been, subject to this policy.

In response to any serious incident of verbal aggression or physical violence, the school will:

- immediately inform the police;
- consider taking advice on pursuing a case under anti-harassment legislation or request an Anti-Social Behaviour Order.

If a complainant's persistent complaining/harassing behaviour is modified and is then resumed at a later date, the school may resume the process identified above at an appropriate level.



Duplicate Complaints

If the school has resolved a complaint under the School's Complaints Procedure and receives a duplicate complaint on the same subject from a partner, family member or other individual, the duplicate complaint will be assessed as to whether there is any new information or any new issues raised which have not previously been considered. If there are no new issues raised, we will inform the duplicate complainant that:

- the complaint has already been investigated and the local process is now complete;
- the school is satisfied that there are no new aspects to the complaint;
- they must now refer to ESFA if they are dissatisfied with the original handling of the complaint.

Next Steps

If the complainant believes the school did not handle their complaint in accordance with their published Complaints Policy and Procedure or they acted unlawfully or unreasonably in the exercise of their duties under education law, they can contact the Department for Education after they have completed Stage 2 – Appeal Panel. The Department for Education will not normally reinvestigate the substance of complaints or overturn any decisions made by New Ash Green Primary School. They will consider whether New Ash Green Primary School has adhered to education legislation and any statutory policies connected with the complaint. The complainant can refer their complaint to the Department for Education online at: www.education.gov.uk/contactus, by telephone on: 0370 000 2288 or by writing to:

Department for Education
Piccadilly Gate
Store Street
Manchester
M1 2WD.

