



# Vexatious Complaints Policy

## Policy on dealing with abusive, persistent or vexatious complaints and complainants

### 1. INTRODUCTION

1.1 Dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the Federation. This can happen either while their complaint is being investigated, or once the Federation has finished dealing with the complaint.

1.2 We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner

1.3 We will not normally limit the contact which complainants have with Federation staff.

1.4 We do not expect staff to tolerate unacceptable behaviour by complainants or any service user. Unacceptable behaviour includes behaviour that 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 without reasonable cause
- Leaving multiple voicemails without reasonable cause

1.5 We 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.

1.6 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.

1.7 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.

### 2. AIM OF THIS POLICY

2.1 The aim of this policy is to contribute to our overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

2.2 It sets out how the Federation will decide which complainants will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff as well as service users.

### 3. DEFINITIONS

3.1 We have adopted the Local Government Ombudsman's (LGO) definition of "unreasonable complainant behaviour" and "unreasonable persistent complaints"

3.2 We define unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Federation, hinder our consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.

3.3 Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.

3.4 Features of an unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily 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 and/or the resolution sought despite offers of relevant assistance
- refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved. This may include failing to disclose information in support of their claim which they later seek to introduce to the process without good reason
- 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 Federation 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 Federation, 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/or 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 Federation 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 publish defamatory or personal opinion in social media

#### **4. IMPOSING RESTRICTIONS**

4.1 We will ensure that the complaint is being, or has been, investigated properly according to the complaints procedure.

4.2 In the first instance the Executive Head will consult with the Chair of Governors (if the Chair is not available, or the complaint relates to the Chair, the Executive Head will consult with the vice-chair of governors) prior to issuing a warning to the complainant. A Federation representative will contact the complainant either by phone, in writing or by email to explain why this behaviour is causing concern and ask them to change this behaviour. The

representative will explain the actions that the Federation may take if the behaviour does not change.

4.3. If the disruptive behaviour continues, the Executive Head or Chair of Governors will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact us in future will be restricted. The Executive Head or Chair of Governors will make this decision and inform the complainant in writing of what procedures have been put in place and for what period. They will also invite the complainant to submit representations to them if they believe the concerns are unjustified or incorrect.

4.4 Any restriction that is imposed on the complainant's contact with us 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 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis and the complainant given a right to make representations at any review

4.5 Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Banning the complainant from making contact by telephone except through a third party e.g. solicitor/Councillor/friend acting on their behalf
- Banning the complainant from sending emails to individual and/or all Federation employees, or Governors and insisting they only correspond by letter
- Banning the complainant from entering the Federation sites, premises and/or grounds. In response to any serious incident of aggression, violence, disruption, or refusal to leave a Federation site when requested, we will immediately inform the Police and communicate our actions in writing. This may include barring an individual from all Federation sites. Schools and school sites are not public places and although parents and carers have rights to attend and enter school premises for legitimate proper purposes, The Education Act of 1996 states that it is an offence for a trespasser on school premises to cause a nuisance or disturbance. The school is entitled to withdraw the implied right a parent or carer has to enter the school, if that parent or carer is violent or aggressive. If the parent or carer then enters the premises, they are in breach of the law, and can be prosecuted in the criminal courts.

This policy applies to all those that engage with the Federation and not just to parents. Actions taken may include:

- Banning the complainant from accessing any Federation building except by appointment
- Requiring contact to take place with one named member of staff only
- Restricting telephone calls to specified days / times / duration
- Requiring any personal contact to take place in the presence of an appropriate witness
- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence)

4.6 When the decision has been taken to apply this policy to a complainant, a representative of the Federation will contact the complainant in writing to explain:

- why we have taken the decision,
- what action we are taking,
- the duration of that action,
- the right to make representation if they feel the concerns of the Federation are unfair and explain the review process of this policy, and
- the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as a vexatious/persistent complainant

4.7 The Complainant will also be sent a copy of this policy

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

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

## **5. NEW COMPLAINTS FROM COMPLAINANTS WHO ARE TREATED AS ABUSIVE, VEXATIOUS OR PERSISTENT**

5.1 New complaints from people who have come under this policy will be treated on their merits. The Executive Head in conjunction with a nominated governor will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.

5.2 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know within the Federation.

## **6. REVIEW**

6.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Executive Head or Chair of Governors 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 invited to submit evidence to the review if they believe the conditions imposed should be lifted

6.2 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.

## **7. REFERRING UNREASONABLY PERSISTENT OR VEXATIOUS COMPLAINANTS TO THE LOCAL GOVERNMENT OMBUDSMEN**

7.1 In some cases, relations between organisations and unreasonably persistent or vexatious complainants break down completely 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 Ombudsman may be prepared to consider a complaint before the procedure has run its course.

## **8. RECORD KEEPING**

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

- The name and address of each service user who is treated as abusive, vexatious or persistent
- When the restriction came into force and ends
- What the restrictions are
- When the service user /complainant and departments (appropriate members of staff/governors) were advised

A report on the number and duration of vexatious complainants will be considered by governors annually.