

Vexatious and Persistent Complaints Policy

Smallwood CE Primary Academy



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Contents

1. Introduction	2
2. Purpose of the policy	3
3. Aggressive or Abusive Behaviour.....	3
4. Managing Unacceptable Actions by Complainants	4
5. Deciding to Restrict Complainant Contact.....	5
6. Restricting Contact	6
7. Withdrawing Restriction.....	7
Appendix 1: Facebook cheat sheet for staff.....	8

1. Introduction

1.1 The Smallwood Academy Trust welcomes the opportunity to hear from Parents/Carers and other stakeholders when services are appreciated, but also wants to know when things go wrong. We are committed to dealing with complaints and provide a high-quality service to those who make them (please see our complaints policy). As part of this service, The Smallwood Academy Trust will not normally limit the contact that parents/carers have with its staff. However, a very small minority of parents/carers make complaints that are vexatious or unreasonably persistent rather than genuinely trying to resolve a grievance.

Examples include:

- Making excessive demands on the time and resources of staff whilst a complaint is being investigated, by for example, excessive telephoning or emailing, writing lengthy frequent complex letters and expecting immediate responses.
- Expecting immediate responses or resolutions to communications (not adhering to our 48 hours turnaround time).
- Being abusive to staff
- Refusing to accept the school's decisions

Dealing with Persistent and Unreasonable Complaints

Although the policy is written in the context of dealing with vexatious or unreasonable persistent complaints, it also provides a framework to be used when concerns relating to persistent and unreasonable requests are brought to the attention of the school and/or trust.

1.2 This policy addresses these issues and covers parents/carers who make enquiries as well as complaints. The Smallwood Academy Trust does, however, recognise its duties under the Freedom of Information Act, the Data Protection Act and related legislation, to provide information to those requesting it.

1.3 This policy applies The Smallwood Academy Trust staff and directors. However, it should be made clear that when it is decided to invoke the policy, this does not automatically apply to a member of staff's involvement in a particular case. Staff, however, reserve the right to follow the policy in line with the action taken by the school and/or trust. Staff also have the right to ask for the policy to be invoked, irrespective of whether the school/trust has applied the policy (Please refer to Section 5).

2. Purpose of the policy

2.1 To make it clear to all complainants, both at initial contact and throughout their dealings with the school/trust, what the school/trust can or cannot do in relation to their complaint, in accordance with the complaints policy. In doing so, the school/trust aims to be transparent and not raise hopes of expectations that cannot be met.

2.2 To deal fairly, honestly, consistently and appropriately with all complainants, including those whose actions we consider unacceptable. The Smallwood Academy Trust believes that all parents/carers, employees and staff have the right to be heard, understood and respected.

2.3 To provide a service that is accessible to all complainants. However, we retain the right, where we consider complainant actions to be unacceptable, to restrict or change access to our service.

2.4 To give the school/trust a framework to implement and take appropriate action against those parents/carers who are deemed to be raising vexatious complaints, or are being unreasonably persistent in raising complaints.

3. Aggressive or Abusive Behaviour

3.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complainant coming into school. The school/trust does not view behaviour as unacceptable just because a complainant is forceful or determined. However, the actions of complainants who are angry, demanding or unreasonably persistent may result in unacceptable demands or behaviour towards The Smallwood Academy Trust's employees and directors. It is these actions that the school/trust considers unacceptable and aims to manage under this policy. The Smallwood Academy Trust has grouped these actions under three broad headings:

3.1.1 Aggressive or Abusive Behaviour

- We expect our staff to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. Quite often complainants are angered by decisions made by the school/trust. However, it is not acceptable when anger escalates into aggression directed towards staff.
- Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether written or oral) that may cause staff to feel afraid, anxious, threatened or abused.
- Examples of behaviours grouped under this heading include: threats, physical violence, personal verbal abuse, derogatory remarks and rudeness. We also consider that inflammatory statements and unsubstantiated allegations can be classed as abusive behaviour.
- Where physical violence has been used or threatened towards staff or their families or associates at any time, this will result in personal contact to be discontinued. Thereafter, only one form of contact may be used such as correspondence in writing. This will be decided on a case by case basis.

3.1.2 Unreasonable Demands

- Complainants which we consider place unreasonable demands on the school/trust for example through:
 - The amount of information sought
 - The nature and scale of service expected
 - The number of approaches made

- The expected speed of response from school/trust

What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviours and the seriousness of the issues raised by the complainant. A complainant could seek help with this from an advisory agency.

- Examples of actions grouped under this heading include:
 - Demanding responses within an unreasonable time-scale
 - Continually making phone calls or sending letter or emails
 - Repeatedly changing the nature of the complaint
 - Raising unrelated concerns
- We consider demands as unacceptable and unreasonable if they impact substantially on the work of the school/trust, such as taking up excessive amounts of staff time to the disadvantage of others.

3.1.3 Unreasonably Persistent

- Some complainants may not be able to accept that the school/trust is unable to assist them further or provide a level of service other than that being provided. Complainants who persist in disagreeing with the action or decision taken in relation to their complaint or contact the school/trust persistently about the same issue will be classed in this category.
- Examples of actions grouped under this heading include:
 - Persistent refusal to accept a decision made in relation to a complaint
 - Persistent refusal to accept explanations relating to what the school/trust can or cannot do
 - Continuing to pursue a complaint without presenting any relevant new information

Complainants approaching the school/trust with any issues may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

- We consider the actions of persistent complainants to be unacceptable if these actions take up what the school regards as being a disproportionate amount of time and resources.

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

- Appear to target (over a significant period of time) on one or more members of school staff and/or;
- Cause on-going distress to individual member(s) of school staff and/or;
- Have a significant adverse effect on the whole/parts of the school community and/or;
- Are pursued in a manner which are 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.

4. Managing Unacceptable Actions by Complainants

4.1 There are relatively few complainants whose actions The Smallwood Academy Trust considers unacceptable. How The Smallwood Academy Trust aims to manage these actions depends on their nature and extent. If it adversely affects our ability to do our work and provide a service to others, we may need to restrict complainant contact with the school/trust in order to manage the situation. The school will aim to do this in a way, wherever possible, that allows a complainant to progress to completion through our complaints process. We may restrict contact in person, by telephone, letter or electronically or by any combination of these. However, we try to maintain at least one form of contact/communication.

4.2 The threat, or use, of physical violence, verbal abuse or threatening behaviour towards The Smallwood Academy Trust staff and/or directors is likely to result in the ending of all direct contact

with the complainant. Serious incidents will be reported to the police. This will always be the case if physical violence is used or threatened.

4.3 We do not deal with correspondence that is abusive to employees or directors. When this happens, we will tell the complainant that we consider their language to be offensive, unnecessary and unhelpful. We will ask them to stop using such language and state that we will not respond to their correspondence if it does not stop. We may request future contact to be through a third party. The Freedom of Information Act does not require the school/trust to answer vexatious requests but the tone and language of the request may not itself render the request vexatious.

4.4 The Smallwood Academy Trust staff will end and block telephone calls if the caller is considered aggressive, abusive or offensive. The employee taking the call has the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop.

4.5 Where a complainant repeatedly contacts the school/trust, sends irrelevant documents or raises issues that have already been answered, we may decide to:

- Only take phone calls from the complainant at set times on set days or put an arrangement in place for only one employee to deal with calls or correspondence from the complainant going forwards.
- Request the complainant to make an appointment to see a named employee before visiting the school or that the complainant contact the school/trust in writing only
- Return the documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed
- Take other action that we consider appropriate. We will, however, always tell the complainant what action we are taking and why.

4.6 Where a complainant continues to correspond on a wide range of issues, and this action is considered excessive, then the complainant is told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly.

4.7 Complainant action may be considered unreasonably persistent if all internal review mechanisms have been exhausted and the complainant continues to dispute the school's/trust's decision relating to their complaint. No future contact will be accepted or interviews granted concerning this complaint. The complainant will be advised TO contact the Department for Education. Any future correspondence which does arrive will be read and filed, but only acknowledged or responded to if the complainant provides significant new information relating to their complaint.

5. Deciding to Restrict Complainant Contact

5.1 When a complainant has been deemed vexatious or unreasonably persistent, the relevant member of staff will decide what action to take, following the advice from the Headteacher/CEO/Chair of Directors. The complainant will be notified in writing outlining:

- The reason why the decision to apply the policy was taken
- What that means in relation to his or her future contact with the school/trust
- How long any restrictions will last; and
- How the complainant might appeal the decision

5.2 This notification must be copied promptly for the information of others already involved such as senior staff, directors, school advisors, etc. Records must be kept on file, for future reference, of the reasons why the decision has been made to classify individuals as vexatious or unreasonably persistent and the action taken. The keeping of such records will be for a period of up to 3 years from the date of the complaint being closed. At the end of the 3 year period, the school/trust will review the relevant case to consider whether it is necessary to retain information specifically relating to an individual classified as vexatious or unreasonably persistent.

5.3 The school/trust may decide to deal with vexatious or unreasonably persistent complainants in one or more of the following ways:

- Once it is clear that one of the criteria in Section 3 has been breached, it may be appropriate to inform the individual(s), in writing, that they are at risk of being classified as vexatious or unreasonably persistent. A copy of this policy should be sent to them and they should be advised to take account of the criteria in any future dealings with the school/trust and its staff. In some cases, it may be appropriate, at this point, to copy this notification to others involved and suggest that complainants seek advice in taking their complaint further.
- Any new complaints will be considered on their own merits. However, if new complaints relate to the same or similar issues previously addressed, it may be appropriate for these issues not to be investigated further under The Smallwood Academy Trust's complaints procedure. This should only be done with the agreement of the Headteacher and Chair of Directors. The complainant should be told this, and there is no need to provide any right of appeal. Subsequent complaints should then simply be noted.
- The school/trust can decline further contact either in person, by telephone, letter or electronically, or any combination of these, provided that one form of contact is maintained. Alternatively, any further contact could be restricted to liaison through a third party.
- Notify complainants in writing that the school/trust has fully responded to the points raised and has tried to resolve the issues but there is nothing more to add and continuing contact on the matter will serve no useful purpose. This notification should state that the correspondence is at an end and that further communications will be acknowledged but not answered.
- Inform complainants that in extreme circumstances the school/trust reserves the right to refer vexatious or unreasonably persistent complaints to the police.

6. Restricting Contact

6.1 Any restrictions will be agreed by the Headteacher/CEO/Chair of Directors and will be appropriate and proportionate to the nature of the complainant's contacts with the school at that time. The following is a summary of the types of restrictions that may be used:

- Placing time limits on the telephone conversations and personal contacts
- Restricting the number of telephone calls that will be taken (for example, one call on one specified morning or afternoon of any week).
- Limiting the complainant to one method of contact (telephone, letter, email, etc)
- Requiring the complainant to communicate only with a named employee
- Requiring any personal contacts to take place in the presence of a witness/third party
- Closing the investigation into a complaint
- Refusing to register and process further complaints providing the complainant with acknowledgment only of further letters or emails received after a particular point.
- Banning a complainant from some or all of the school's/trust's premises
- Involving the police in cases where we believe the complainant has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened or where the complainant refuses repeated requests to leave school/trust premises.

7. Withdrawing Restriction

7.1 Once an individual has been classified as a vexatious or unreasonably persistent complainant, there is a mechanism for withdrawing this status if, for example, a more reasonable approach is subsequently demonstrated by the complainant.

7.2 Staff should have already used careful judgement and discussion with the Headteacher/CEO/Chair of Directors in recommending or confirming vexatious or unreasonably persistent status and similar judgement/discussion will be necessary when recommending that such status should be withdrawn.

Appendix 1: Some examples of vexatious and unreasonably persistent complainants

- Refusal to specify the grounds of a complaint, despite offers of assistance from The Smallwood Academy Trust staff
- Refusal to co-operate with the complaints investigation process or insistence on the complaint being dealt with in ways which are incompatible with The Smallwood Academy Trust's complaints procedure
- Making what appear to be groundless complaints about employees dealing with the complaints or attempting to use the complaints procedure to pursue a personal vendetta against an employee
- Making unnecessarily excessive demands on the time and resources of The Smallwood Academy Trust staff whilst a complaint is being investigated
- Changing the basis of the complaint as the investigation process goes on and/or denying statements he/she made at an earlier stage
- Raising, at a late stage in the process, significant new information which was in their possession when he or she first submitted the complaint.
- Introducing trivial or irrelevant new information or raising a large number of detailed but unimportant questions and insisting they are all fully responded to.
- Lodging a number of complaints in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure.
- Refusing to accept that certain issues are not within the remit of a complaints procedure or demanding outcomes which the complaints procedure cannot itself provide. This could include overturning of court decisions, dismissal or criminal prosecution of staff
- Electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of all the other persons involved
- Seeking to coerce, intimidate or threaten staff or other people involved, whether by use of language, tone of voice, or behaviour including body language
- Submitting repeat complaints essentially about the same issues, which have already been addressed under the school complaints procedure.
- Persistence in contacting the school and demanding responses or action long after the school/trust has closed the enquiry/investigation into a complaint and all rights of review and appeal have been exhausted.