

Persistent and Vexatious Complaints Policy

Review Date: July 2023

Review by: Personnel/Student Care and Discipline Committee

Final Approval: Full Governors

Context

The Core Values which relate specifically to this policy state that we are working together to form relationships based on:

Justice – everyone is entitled to be treated fairly and to promote the self-esteem of others.

Responsibility – everyone is expected to understand the consequences of their actions.

Truth – everyone is required to be honest and to communicate in a positive manner.

Compassion – everyone is encouraged to be generous in their concern for others

These values contribute to our common purpose of “Striving for high quality education with a strong Christian ethos”, and as such underpin the Academy’s approach to wellbeing.

Data Protection

Any personal data processed in the delivery of this policy will be processed in accordance with the Academy Data Protection policy.

Introduction

- Bishop Stopford School is committed to dealing with all complaints fairly and impartially, and to providing a timely and responsive service to those who complain. In a minority of cases, complaints are pursued in ways which can impede an investigation or present significant resource implications for the academy. This can happen while the complaint is being investigated or once the matter has been concluded.
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- We expect appropriate levels of courtesy to characterise all interactions, and we will act in accordance with the seven principles of public life (‘The Nolan Principles’). We do not expect staff to tolerate unacceptable behaviour in any circumstance and we will take action to protect our people and property from unacceptable complaining behaviour.

This policy has been written in accordance with the Department for Education’s Best Practice advice for School Complaints Procedures (2016), and informed by equivalent policies from the Local Government Ombudsman service. It should be read in conjunction with the Academy Complaints Policy

Definitions

1. **Complaint**: any expression of dissatisfaction (face to face, by telephone, electronically or in writing) with Bishop Stopford School or a member of its community which requires a formal response.
2. **‘Unacceptable complainant behaviour**’: behaviour which is abusive, offensive, threatening and unreasonably persistent and therefore can be considered vexatious. Any behaviour from a complainant which impacts negatively on the day-to-day running of the academy and directly or indirectly on the wellbeing of students or staff. (See Appendix 1 for specific examples.)
3. **‘Harassment**’: the unreasonable pursuit of actions so that they appear to be targeted at member/s of the academy’s community and cause ongoing distress by being perceived as intimidating or oppressive by the recipient. This behaviour can also be considered to be vexatious.
4. **Members of the academy’s community**: members of staff, governors, students, parents¹.

¹ *Parent* denotes any adult or organisation with parental responsibility for a student at the Academy

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Policy

We will:

- uphold standards of courtesy and reasonableness in all communications with persons who wish to express a concern or pursue a complaint;
- deal fairly, honestly, openly and transparently with those who make persistent or vexatious complaints or who harass members of staff;
- maintain adequate records of actions taken in line with this policy;
- review as appropriate, and at a minimum once a year, any sanctions applied in the context of this policy.

Responding to Serial or Unreasonable Complaints and/or Harassment

We will:

- inform the complainant that his/her behaviour is considered to be a concern and, if it is not modified, action will be taken in accordance with this policy. This will be confirmed in writing, enclosing a copy of this policy.
- take some or all of the following actions, if the behaviour is not modified:
 - a) Inform the complainant that all routine communication with the academy should be by letter to one named person;
 - b) Prohibit the complainant from making contact by telephone except through a third party e.g. representative acting on their behalf;
 - c) Require any personal contact to take place in the presence of an appropriate witness;
 - d) Ensure all interactions are recorded;
 - e) Put in place a specific procedure, such as the complainant only dealing directly with a third party identified by the governing body, who will investigate, determine whether or not the concern/complaint is reasonable or vexatious and then advise the Headteacher accordingly.
 - f) Let the complainant know that there will be no further contact from them on the specific topic of that complaint;
 - g) Take advice from HR/legal services about a range of matters, including pursuing a case under anti-harassment legislation;
 - h) Issue a warning about being excluded from the academy site or proceed straight to a temporary bar (Appendix 2);
 - i) Where a complainant continues to behave in a way which is unacceptable, to refuse all contact with the complainant and stop any investigation into an ongoing complaint (Appendix 3).
 - j) Where the behaviour is so extreme or it threatens the immediate safety and welfare of anyone in the academy's community, report the matter to the police and/or take legal action.
 - k) Take action of another kind which is proportionate to the behaviour and advised by HR.
- if a complainant's behaviour is modified but then resumed at a later date, apply any or all of the processes outlined above.

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Appendix One

Characteristics of Unreasonable Behaviour and Vexatious Interactions

Unreasonable behaviour may be characterised by:

- a) Prolific correspondence or excessive e-mail or telephone contact about a concern or complaint;
- b) An insistence upon pursuing insubstantial complaints and/or unrealistic or unreasonable outcomes;
- c) An insistence upon pursuing complaints in an unreasonable manner;
- d) An insistence on only dealing with the Headteacher irrespective of the issue and the level of delegation in the academy to deal with such matters;
- e) Using Freedom of Information requests excessively;
- f) 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 academy because it is unlawful.)

Specific behaviours include:

- Using loud, offensive and/or discriminatory language, swearing, cursing or displaying temper;
- Threatening to do actual bodily harm to a member of the academy's community, regardless of whether or not the behaviour constitutes a criminal offence;
- Damaging or destroying the academy's property;
- Transmitting abusive or threatening messages to a member of the academy's community via e-mails or text / voicemail / phone messages or any other form of written communication;
- Make defamatory, offensive or derogatory comments regarding the academy or any members of its community in the public arena;
- Act in an inappropriate manner, as a result of inebriation or intoxication;
- Falsifying information or deliberately using falsehoods to support a complaint.

Inappropriate use of Social Network Sites:

- Use of social media websites to fuel campaigns and complaints against the academy and/or members of its community
- Posting threatening, libellous or defamatory comments on social network sites;
- Participating in activity which can be considered as cyberbullying against a member of the academy's community.

The academy will report such examples to the 'Report Abuse' section of the website and will insist that the creator removes such comments immediately. The academy will also consider its legal options with any such misuse of social networking and other sites.

Characteristics of Vexatious Interactions:

While the list below is not exhaustive, it identifies behaviours which can be defined as vexatious:

- Refusal to accept that issues are not within the remit of the Complaints Procedure despite having been provided with information about the scope of that Procedure;
- Insistence on a 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 concern or complaint);
- Persistently seeking outcomes which have been explained as unrealistic for legal, policy (or other valid) reasons (eg seeking to have a member of staff dismissed or replaced, or a student permanently excluded);

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- Continuing to make persistent and unreasonable demands or expectations of staff and/or the Complaints Procedure after the unreasonableness has been explained to the complainant (eg insisting on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails);
- Introducing trivial or irrelevant new information whilst a complaint is being investigated and expect this to be taken into account and commented on;
- Raising large numbers of detailed but unimportant questions, and insisting they are fully answered to the complainant's timescales;
- Changing the substance or basis of a complaint without reasonable justification whilst the concern or complaint is being addressed;
- Refusing to accept the outcome of the Complaint Procedure after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given;
- Making the same complaint repeatedly, perhaps with minor differences, after the Complaints Procedure has been concluded, and insisting that minor differences make these 'new' concerns or complaints which should be put through the full Complaints Procedure;
- Persistently approaching the academy through different routes about the same issue;
- Refusing to accept documented evidence as factual.

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Appendix 2

Barring from the Academy Premises

Although fulfilling a public function, schools are private places. The public has no automatic right of entry. Bishop Stopford School will therefore act to ensure it remains a safe place for its community.

If behaviour is a cause for concern, Bishop Stopford School will ask the complainant to leave the academy's premises. In serious cases, the Headteacher will notify the person in writing that their implied licence to be on academy premises has been temporarily revoked subject to any representation that they may wish to make. Bishop Stopford School will give the parent the opportunity to formally express his/her views on the decision to bar in writing.

The decision to bar will then be reviewed, taking into account any representations made by the parent, and either confirmed or lifted. If the decision is confirmed the parent will be notified in writing, explaining how long the bar will be in place.

Anyone wishing to complain about being barred can do so, by letter or email to the Headteacher or Chair of Governors. (Complaints about barring cannot be escalated to the Department for Education. Once the academy's own Complaints Procedure has been completed, the only remaining avenue of appeal is through the courts; independent legal advice must therefore be sought.)

Appendix 3

The Decision to Stop Responding

The decision to stop responding will not be taken lightly, and the academy will only consider this after it has taken every reasonable step to address the complainants' needs and where it has given the complainant a clear statement of the academy's position and their options.

The decision to stop responding will be taken in cases where:

- The complainant is contacting the academy repeatedly but making the same points each time;
- The academy has reason to believe the complainant is contacting them with the intention of causing disruption or inconvenience;
- Communication to the academy is often or always abusive, threatening or aggressive;
- Insulting personal comments are made towards staff.

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