

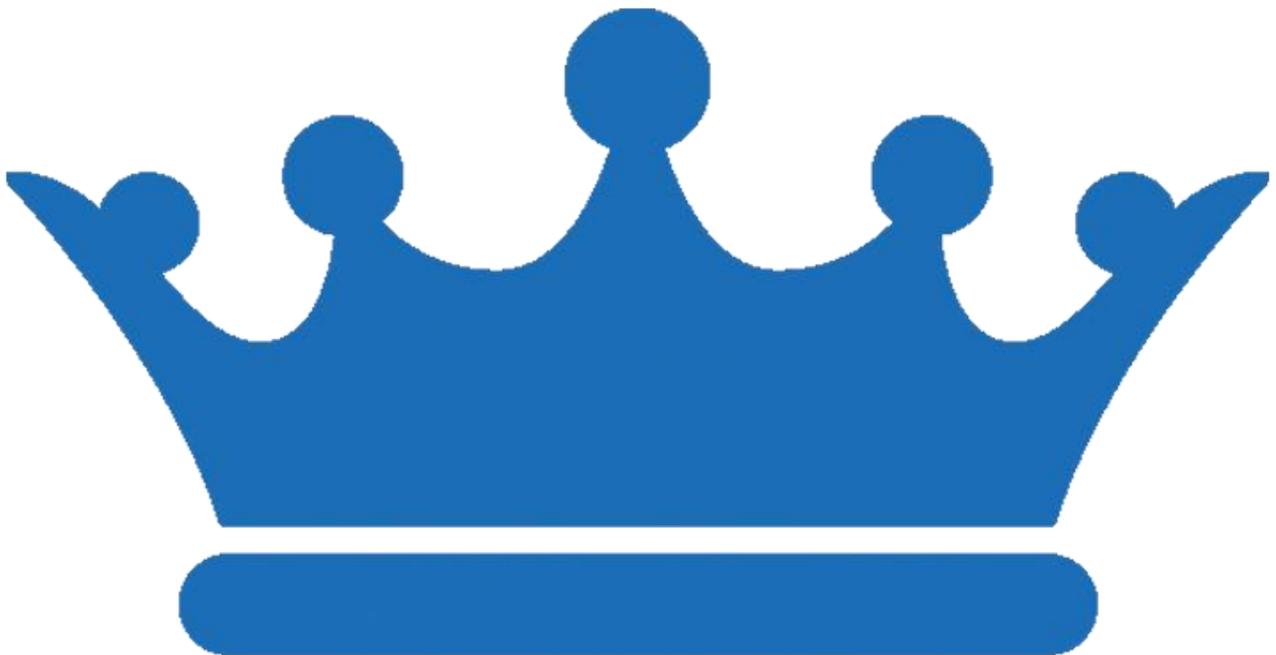


Kingsway Park
HIGH SCHOOL

Habitual, Unreasonably Persistent or Vexatious Complaints Policy

Reviewed Date: Feb 2020

Review Due: Feb 2021



1. Introduction.

This policy applies to all complainants, and identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be 'habitual, unreasonably persistent or vexatious' and ways of responding to these situations.

The term complainant in this policy includes requests made under the Freedom of Information Act 2000, the Data Protection Act 1998, and the Environmental Information Regulations 2004, and reference to the complaints procedure is, where relevant, to be interpreted as meaning requests under those Acts. All such incidences will be documented. The Governing body of Kingsway Park High School has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as a vexatious complainant and will receive written confirmation of the same from the head teacher and /or the Chair of Governors This will also inform the complainant of the action to be taken with regard to any further communication received.

Habitual, unreasonably persistent and / or vexatious complainants can be a problem for School staff and Governors. The difficulty in handling such complaints can place a strain on time and resources. Whilst the School endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

2. Scope of Policy.

This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints under the School's complaints procedures. However it is not necessary for a complaint to have become a level 3 complaint before this policy can be invoked. Judgment and discretion must be used in applying the criteria to identify potential habitual or vexatious complainants and in deciding on the appropriate action to be taken in specific cases.

The policy should only be invoked following careful consideration of all the issues by the Head and after authorisation has been provided by the Chair of Governors. If the complaint is principally or to a reasonable degree against the Chairperson, then authorisation will be from a 3 person panel of the Governing Body. The decision must be reported to the full governing body.

No individual may undertake a role in authorisation in this procedure if he/she has had an involvement with the complaint.

3. Definition of Habitual or Vexatious Complainant.

In this policy the term habitual means 'done constantly or as a habit'. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. The Local Government Ombudsman defines unreasonably persistent complainants as:-

"Those who, because of the frequency or nature of their contact with an authority, hinder the authority's consideration of their or other people's, complaints"

These terms are used in this policy to clarify that we are attempting to deal with persons who seek to be disruptive or whose requests cause disproportionate and repeated efforts on behalf of the school by pursuing an unreasonable course of conduct.

Each case will be viewed individually and decided on its merits. However, a complainant (and /or anyone acting on their behalf) may be deemed to be habitual, unreasonably persistent or vexatious if previous or current contact with them shows that they may meet **ANY** or all of the following criteria:-

Where complainants:-

- a) **Persist in pursuing a complaint** where the school's complaints procedure has been fully and properly implemented and exhausted (e.g. where several responses have been provided).
- b) **Change the substance of a complaint or continually raise new issues or seek to prolong contact** by continually raising further concerns or questions upon receipt of a response. Care must be taken not to discard new issues which are significantly different from the original complaints. These might need to be addressed as separate complaints.
- c) Are **unwilling to accept documented evidence of action**.
- d) Are **unwilling to accept that the Governing body has reached a final decision** on a chosen course of action.
- e) **Deny receiving an adequate response** in spite of correspondence specifically answering their questions.
- f) **Persist in pursuing a matter** when they have already exhausted other statutory routes of appeal.
- g) **Do not clearly identify the precise issues** which they wish to be investigated, despite reasonable efforts to help them specify their concerns.
- h) **Continue to seek to pursue a complaint** where the concerns identified are not within the remit of the Governing body to investigate.
- i) **Focus on a trivial matter** to an extent which it is out of proportion to its significance and continue to focus on this point. It is recognised that determining what a 'trivial' matter is can be subjective and careful judgments must be used in applying this criteria.
- j) Have in the course of addressing a complaint had an excessive number of contacts with the School **placing unreasonable demands on staff time**. A contact may be in person or by telephone, letter, e-mail or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgment based on the specific circumstances of each individual case.
- k) **Have threatened or used physical violence towards staff** at any time – this will, in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be continued through written communication. All such incidences will be documented. The Governing Body of Kingsway Park High School has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as a vexatious complainant and will receive written confirmation of the same from the Head Teacher and/or the Chair of Governors. This will also inform the complainant of the action to be taken with regard to any further communication received.
- l) **Have harassed or been personally abusive or verbally aggressive** on more than one occasion towards staff dealing with the complaint. Staff recognise, however, that complainants may be sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. They will document all instances of harassment, abusive or verbally aggressive behaviour.
- m) **Are known to have recorded meetings** or face-to-face / telephone conversations without the prior knowledge and consent of other parties involved.

- n) **Make unreasonable demands on the customer/complainant relationships** and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the complaints procedure or normal recognized practice.

In addition a complainant may be considered to be unreasonably persistent if they:-

- a) refuse to specify the grounds of their complaint, despite offers of assistance from staff;
- b) refuse to co-operate with the complaints investigation process while still expecting resolution of their complaint;
- c) refuse to accept that their complaint does not fall within the remit of the Schools Complaints Policy, despite having been provided with information about the scope of the policy;
- d) change the basis of their complaint during the investigation;
- e) introduce trivial or irrelevant new information which they expect to be taken into account, or continue to raise large numbers of detailed but irrelevant questions and insist they are all fully responded to;
- f) adopt a 'scattergun' approach by pursuing a complaint through a variety of sources simultaneously e.g. School Services, MP, Councillor, Ombudsman etc.
- g) repeatedly submit complaints about the same issues, after the complaints processes have been completed;
- h) make unreasonable demands on staff time with excessive telephone calls, e-mails, or letters and expect an immediate response

4. Strategy for Dealing with Habitual, Unreasonably Persistent or Vexatious Complainants.

Where complainants have been identified as habitual, unreasonably persistent or vexatious under the scope of this policy, taking account of the above criteria, the authorising officers (Head and Chairperson) will determine what action to take. The school will implement such action and will notify complainants, in writing, of the reasons why they have been classified as habitual or vexatious and what action will be taken. They will also be notified of the review procedure under section 5 below.

This notification may be copied for the information of others already involved in the complaint or matters closely related to it, e.g. LA officers, Councillors, staff, Members of Parliament. A record must be kept including on the complaints database, for future reference of the reasons why a complainant has been classified as habitual or vexatious.

It may be decided to decide to deal with complainants in one or more of the following ways:-

- a) Withdraw contact with the complainant either in person, by telephone, by email, by fax, by letter or any combination of these, provided that at least one form of contact is maintained. If staff are to withdraw from a telephone conversation with a complainant there will be an agreed statement available for them to use at such times.
- b) To restrict contact to liaison through a designated member of staff (and alternative arrangements in that staffs absence).

- c) Notify the complainant in writing that the Governing body has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should be notified that any form of contact, either orally or in writing, in relation to their complaint, or any further complaints relative to the same period of time, or the same or similar issues as an earlier complaint, is at an end, and that further contact received will be acknowledged but not answered.
- d) Temporarily suspend, for a period to be specified to the complainant, all contact with the complainant, provided that the Governing body shall not withdraw or not provide any services to which the complainant or his / her family are entitled to receive.
- e) In extreme circumstances inform the complainant that the School reserves the right to pass unreasonable or vexatious complaints to the Council's Legal Services and may result in legal action against the complainant.

5. Review Decisions and Withdrawing 'Habitual or Vexatious' Status.

Once a complainant has been determined, as habitual or vexatious such status needs to be regularly reviewed, and, where appropriate, withdrawn at a later date. Such action may be appropriate where a complainant subsequently demonstrates a more reasonable approach or submits a further complaint for which the normal complaints procedures would appear appropriate.

Complainants also have an opportunity to have their habitual or vexatious status withdrawn.

The Head, and Chair of Governors (or GB panel) will review their decisions to categorise a complainant as habitual or vexatious at least every six months. In addition, they will review that decision on receipt of a request to do so from the person so categorised, provided such a request has not been received in the preceding six months.

If the person categorised as habitual or vexatious is not satisfied with the decision reached he may request that the decision is reviewed by the Governing body, which will appoint an appeal panel of 3 to review the decision. Such a request for a review may only be received once in any six month period. Notice of that decision will be given, as far as is practical, within 15 working days of receipt of the request.

The panel on review may either withdraw the categorisation of a person as habitual or vexatious or amend the strategy being applied to that person.

If the panel considers it appropriate to withdraw the status of habitual or vexatious complainant, normal contact with the complainant and application of the school's complaints procedure will be resumed. Notice of that decision will be supplied to the person or persons forthwith.

Copies of all decisions relating to the categorisation of a person as a habitual or vexatious complainant will be held by the school who will hold and maintain a central register of such decisions.

6. Monitoring Arrangements.

Statistical information will be presented annually to the Governing body with details of complainants who are categorised as habitual and/or vexatious.

7. General.

Nothing in this policy affects an individual's statutory rights.

Governors may be approached by individuals who have been identified by the as habitual /vexatious complainants. In such cases they may, if they so wish ask the Head of School Services to write to those individuals on their behalf, to explain that the Governor will not be able to deal with the particular issue whilst they continue to be a vexatious/habitual complainant.

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| Review Date | January 2021 |
| Person Responsible | Headteacher |