Winterbourne Earls CE Primary School
Vexatious and Malicious Complaints Policy

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Introduction
At Winterbourne Earls CE Primary School we pride ourselves on being sensitive to the needs of our children and we enjoy excellent relationships with our parents and the community. We believe that our 'open door policy' helps resolve misunderstandings, concerns or complaints at an early stage.

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 may have a detrimental, negative impact on the day-to-day running of the school placing a strain on time and resources. Such actions can also have an effect either directly or indirectly, on the overall well-being of the children or staff in the school.

Whilst the school endeavours to respond with patience and sympathy to the needs of all complainants, there are occasions when there is nothing further which can reasonably be done. In these exceptional circumstances, the school may act in accordance with this policy.

Purposes of this 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. This policy may be invoked at any time during the staged procedures should the Senior Leadership Team (SLT) consider the actions of the complainant to be unreasonable or to fall within the remit of this policy. Judgment and discretion must be used in applying criteria to identify potential vexatious, malicious or harassing complainants and in deciding on the appropriate action to be taken.

The policy should only be invoked following careful consideration by the SLT including the Headteacher and Chair of Governors. The decision must be reported to the full governing body.

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, the SLT must be considerate to:

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

The SLT must be aware to recognise 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 each individual 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 including staff time, 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 compliant?

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

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 reopen the issue with the school after the Complaints Procedure has been fully exhausted and the school has done everything it reasonably can in response to the complaint, the Chair of Governors, after consultation with the SLT, 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 SLT and, if not modified, action may be taken in accordance with this policy

The following actions may be taken giving due 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 present, nominated by the Chair of Governors, 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 Head Teacher 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 Head Teacher 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 the case under anti-harassment legislation or 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;

Procedures for dealing with cases of vexatious or malicious complaints or harassment

Where complainants have been identified under this policy as being vexatious, malicious or harassing, and taking account of the above criteria, the SLT will determine what action to take. The complainant will be notified in writing of the reasons why have been classified as such, what action will be taken and of the review procedure.

A record must be kept of the reasons why a complainant has been classified as being vexatious, malicious or harassing. All parties already involved in the complaint or matters closely related to it may be copied into any notification for information.

It may be decided that complainants will be dealt with in one or more of the following ways:

- 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 required to contact the complainant for emergency purposes i.e. in the case of an accident, they should do so using an agreed statement issued by the SLT.
- To restrict contact to liaison through a designated third party (or via alternative arrangements in their absence)
- 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.
- 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 fail to provide any services which the complainant or their family are entitled to receive.
- In extreme circumstances inform the complainant that unreasonable or vexatious behaviour may result in legal action against them.

Review

Once a complainant has been determined as being vexatious, malicious or harassing, such status shall be reviewed regularly and if/when appropriate, withdrawn. 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.

The SLT will review their decision to categorise a complainant as being vexatious, malicious or harassing at least every six months. In addition, they will review that decision on receipt of a request to do so from the complainant, provided such a request has not been received in the preceding six months.

If the person/s categorised as being vexatious, malicious or harassing are not satisfied with the decision reached, they may request that the decision be reviewed by the Governing body which will appoint an appeal panel of three governors 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 confirm or withdraw the categorisation of a person/s as being vexatious, malicious or harassing or amend the strategy being applied to that person/s.

If the panel considers it appropriate to withdraw the status of a vexatious, malicious or harassing complainant, normal contact with the complainant and application of the school's complaints procedure will be resumed. Notice of any decisions will be supplied to the person or persons concerned with immediate effect.

Copies of all decisions relating to the categorisation of a person/s as being a vexatious, malicious or harassing complainant will be sent to the clerk who will hold and maintain a central register of such decisions.