



POLICY NAME: **Persistent or Vexatious Complaints**

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REVIEWER: C. Bolton

Introduction

Our Trust staff deal with specific complaints as part of their day-to-day management of the academies in accordance with the Rowan Learning Trust' complaints procedure.

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 begin to impact negatively on the day-to-day running of the academies and directly or indirectly the overall well-being of the children or staff in the academies. In these exceptional circumstances, the academy may take action in accordance with this policy.

1. Aims of policy

1.1. The aims of this policy are to:

- uphold the standards of courtesy and reasonableness that should characterise all communication between the academy and persons who wish to express a concern or pursue a complaint;
- support the well-being of children, staff and everyone else who has legitimate interest in the work of the academies, including governors and parents;
- deal fairly, honestly, openly and transparently with those who make persistent or vexatious complaints and those who harass members of staff in the academy while ensuring that other stakeholders suffer no detriment.

2. Parents' expectations the academy

2.1. Parents/carers/members of the public who raise either informal concerns or formal complaints with the academy can expect the academy to:

2.11 communicate to parents/carers in writing:

- how and when problems can be raised with the academy;
- the existence of the academy complaints procedure, and
- the existence of the RLT Persistent or Vexatious complaints policy;

2.12 respond within a reasonable time;

2.13 be available for consultation within reasonable time limits bearing in mind the needs of the pupils within the academy and the nature of the complaint;

2.14 respond with courtesy and respect;

2.15 attempt to resolve problems using reasonable means in line with the academy complaints procedure and advice from the Department for Education. The aim is to keep complainants informed of progress towards a resolution of the issues raised.

3. The Trusts expectations of parents/carers/members of the public

3.1. The academy can expect parents/carers/members of the public who wish to raise problems with the academy to:

- treat all academy staff with courtesy and respect;
- respect the needs and well-being of pupils and staff in the academy;
- avoid any use, or threatened use, of violence to people or property;
- avoid any aggression or verbal abuse (including the use of inappropriate language whether or not directed at a member of staff);
- recognise the time constraints under which members of staff in the academy work and allow the academy a reasonable time to respond;
- recognise that resolving a specific problem can sometimes take some time;
- (in the case of a complaint) follow the academy complaints procedure

4. Who is a persistent complainant?

4.1. For the purpose of this policy, a persistent complainant is a parent/carer or member of the public who complains about issues, either formally or informally, or frequently raises issues that the complainant considers to be within the remit of the academy, and whose behaviour is unreasonable. Such behaviour may be characterised by:

- actions which are obsessive, persistent, harassing, prolific, repetitious;
- prolific correspondence or excessive e-mail or telephone contact about a concern or complaint;
- uses Freedom of Information or Subject Access Requests excessively and unreasonably;

- an insistence upon pursuing unsubstantial complaints and/or unrealistic or unreasonable outcomes;
- an insistence upon pursuing complaints in an unreasonable manner;
- an insistence on only dealing with the headteacher on all occasions, irrespective of the issue and the level of delegation in the academy to deal with such matters;
- 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.

4.2. For the purpose of this policy, harassment is the unreasonable pursuit of such actions as in (1) to (7) above in such a way that they:

- appear to be targeted over a significant period of time on one or more members of the academy staff and/or:
- cause ongoing distress to individual member(s) of the academy staff and/or:
- have a significant adverse effect on the whole/parts of the academy community and/or:
- are pursued in a manner which can be 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.

5. The academy's actions in cases of persistent or vexatious complaints or harassment

5.1. The academy is committed to dealing with all complaints fairly and impartially, and to providing a high-quality service to those who complain. We will not normally limit the contact complainants have with the academy; however, we do not expect our staff to tolerate unacceptable behaviour and will take action to protect staff from that behaviour, including that which is abusive, offensive or threatening.

5.2. A complaint may be regarded as unreasonable when the person making the complaint:

- Refuses to articulate their complaint or specify the grounds of a complaint or the outcomes sought by raising the complaint, despite offers of assistance.
- Refuses to cooperate with the complaints investigation process while still wishing their complaint to be resolved.
- Refuses to accept that certain issues are not within the scope of a complaints procedure.
- Insists on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Introduces trivial or irrelevant information which the complainant expects to be taken into account and commented on, or raises large numbers of detailed but unimportant questions, and insists they are fully answered, often immediately and to their own timescales.
- Makes unjustified complaints about staff who are trying to deal with the issues and seeks to have them replaced.
- Changes the basis of the complaint as the investigation proceeds.
- Repeatedly makes the same complaint (despite previous investigations or responses concluding that the complaint is groundless or has been addressed).
- Refuses to accept the findings of the investigation into that complaint where the academy's complaints procedure has been fully and properly implemented and completed including referral to the DfE.
- Seeks an unrealistic outcome.

- Makes excessive demands on the academy's time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and by telephone while the complaint is being dealt with.
- 5.3. A complaint may also be considered unreasonable if the person making the complaint does so either face-to-face, by telephone, in writing or electronically:
- Maliciously.
 - Aggressively.
 - Using threats, intimidation or violence.
 - Using abusive, offensive or discriminatory language.
 - Knowing it to be false.
 - Using falsified information.
 - By publishing unacceptable information in a variety of media, e.g. social media websites and newspapers.
- 5.4. Complainants should limit the numbers of communications with the academy while a complaint is being progressed. It is not helpful if repeated correspondence is sent (either by letter, phone, email or text) as it could delay the outcome being reached.
- 5.5. Whenever possible, the headteacher or chair of governors will discuss any concerns with the complainant informally before applying an 'unreasonable' marking.
- 5.6. **If the behaviour continues**, the academy will verbally inform the complainant that his / her behaviour is considered to be becoming unreasonable / unacceptable and, if it is not modified, action may be taken in accordance with this policy.
- 5.7. This will be confirmed in writing.
- 5.8. **If the behaviour is not modified**, the academy will take some or all of the following actions as necessary, having regard to the nature of the complainant's behaviour and the effect of this on the academy community:
- a) inform the complainant in writing that his/her behaviour is now considered by the academy to be unreasonable/unacceptable and, therefore, to fall under the terms of this policy
 - b) inform the complainant that all meetings with a member of staff will be conducted with a second person present and that notes of meetings may be taken in the interests of all parties

- c) Inform the complainant that, except in emergencies, all routine communication with the complainant to the academy should be by letter and posted or emailed to admin email address on the academy website.
- d) (in the case of physical, or verbal aggression) take advice from the police, HR / Legal Services (services purchased by the Trust Board) and consider warning the complainant about being banned from the academy site or proceed straight to a temporary ban;
- e) consider taking advice from the legal department on pursuing a case under Anti-Harassment legislation;
- f) consider taking advice from the HR / Legal Services about putting in place a specific procedure for dealing with complaints from the complainant, i.e. the complainant will not be able to deal directly with the Headteacher but only with a third person to be 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.

5.9. For complainants who excessively contact the academy causing a significant level of disruption, the academy may specify methods of communication and limit the number of contacts in a communication plan. This will usually be reviewed after six months.

5.10. A decision to stop responding will only be considered in circumstances where the following statements are true:

- Every reasonable step has been taken to address the complainant's concerns.
- The complainant has been given a clear statement of the academy's position and their options.
- The complainant contacts the academy repeatedly, making substantially the same points each time.

5.11. If the above criteria are met, in making a decision to stop responding, the academy will also consider if the complainant is often abusive or aggressive in their communication, makes insulting personal comments about or threats towards staff, and if the academy believes their intent is to disrupt or inconvenience the academy.

5.12. The academy will not stop responding to a complainant on the basis that they are difficult to deal with or they ask complex questions.

- 5.13. In response to any serious incident of aggression or violence, the concerns and actions taken will be put in writing immediately and the police informed. This may include banning an individual from the premises.
- 5.14. Thus, based on 5.8f, legitimate new complaints may still be considered even if the person making them is, or has been, subject to the RLT Persistent or Vexatious Complaints Policy. However, the academy will be advised by HR / Legal Services.
- 5.15. If a complainant's persistent complaining/harassing behaviour is modified and is then resumed at a later date within a reasonable period of time, the academy may resume the process identified above at an appropriate level. In these circumstances, advice may be sought from HR/Legal Services.

6. Exceptional circumstances

- 6.1. The DfE expects complainants to have completed the academy's complaints procedure before directing a complaint to them. The exceptions to this include when:
- Pupils are at risk of harm.
 - Pupils are missing education.
 - A complainant is being prevented from having their complaint progress through the academy's complaints procedure.
 - The DfE has evidence that the academy is proposing to act or is acting unlawfully or unreasonably.
- 6.2. If a social services authority decides to investigate a situation, the headteacher or governing committee may postpone the complaints procedure.
- 6.3. Where a matter can be resolved through a legal appeal, it will not be considered as a formal complaint. The key areas are: admissions decisions, certain decisions relating to formal assessment of SEND, and decisions to permanently exclude a child.
- 6.4. If a complainant commences legal action against the academy in relation to their complaint, the academy will consider whether to suspend the complaints procedure, until those legal proceedings have concluded.

Appendix A - Identifying potentially vexatious requests

Indicators (not listed in any order of importance)

Abusive or aggressive language

The tone or language of the requester's correspondence goes beyond the level of criticism that a public authority or its employees should reasonably expect to receive.

Burden on the Academy

The effort required to meet the request will be so grossly oppressive in terms of the strain on time and resources, that the Academy cannot reasonably be expected to comply, no matter how legitimate the subject matter or valid the intentions of the requester.

Personal grudges

For whatever reason, the requester is targeting their correspondence towards a particular employee or office holder against whom they have some personal enmity.

Unreasonable persistence

The requester is attempting to reopen an issue which has already been comprehensively addressed by the public authority, or otherwise subjected to some form of independent scrutiny.

Unfounded accusations

The request makes completely unsubstantiated accusations against the public authority or specific employees.

Intransigence

The requester takes an unreasonably entrenched position, rejecting attempts to assist and advise out of hand and shows no willingness to engage with the Academy.

Frequent or overlapping requests

The requester submits frequent correspondence about the same issue or sends in new requests before the public authority has had an opportunity to address their earlier enquiries.

Deliberate intention to cause annoyance

The requester has explicitly stated that it is their intention to cause disruption to the public authority, or is a member of a campaign group whose stated aim is to disrupt the Academy.

Scattergun approach

The request appears to be part of a completely random approach, lacks any clear focus, or seems to have been solely designed for the purpose of 'fishing' for information without any idea of what might be revealed.

Disproportionate effort

The matter being pursued by the requester is relatively trivial and the Academy would have to expend a disproportionate amount of resources in order to meet their request.

No obvious intent to obtain information

The requester is abusing their rights of access to information by using the legislation as a means to vent their anger at a particular decision, or to harass and annoy the Academy, for example, by requesting information which the Academy knows them to possess already.

Futile requests

The issue at hand individually affects the requester and has already been conclusively resolved by the Academy or subjected to some form of independent investigation.

Frivolous requests

The subject matter is inane or extremely trivial and the request appears to lack any serious purpose. The request is made for the sole purpose of amusement.