

# Habitual, Vexatious and General Complaints Policy

## Introduction

The Governors of St Bernard's Catholic Grammar School are committed to ensuring that the highest standards are maintained at the school both in the provision of education to students and in every other aspect of the running of the school. A complaint procedure is an important part of the management of a well-run school allowing parents the opportunity to voice any concerns they may have through appropriate channels, as well as members of the general public. This procedure has been adopted by the Governing Body to ensure a timely, systematic and fair approach to the resolution of such concerns. The policy is available on request and can be found on the school's website.

This procedure is designed to allow parents and carers of registered pupils at the school a means of making complaints which they can be confident will be addressed properly. In general, any written complaint should be addressed to the Headteacher although it is expected that attempts will be made to resolve difficulties informally with the class teacher/form tutor/Head of Year before being referred to the Headteacher. Taking informal concerns seriously at the earliest stage reduces the number that develop into formal complaints. We aim to ensure that concerns are handled, if at all possible, without the need for formal procedures. The matter is referred to the formal stage only when the informal stage of the procedure has been exhausted and has failed to provide a successful resolution. If any substantial complaint is made to a member of staff it should be referred to her or his line manager or Headteacher, as appropriate, if it cannot be resolved immediately, by the member of staff, to the satisfaction of the parent.

A complaint may result in disciplinary action by the school against a member of staff, which would be confidential between that member of staff and the school, but otherwise parents should be kept fully informed of the handling of any complaint. Any complaint will be kept confidential unless it is necessary to involve other parties and will be dealt with as quickly as possible.

This policy does not cover all complaints, as some are dealt with under separate procedures. Those not covered are outlined below; the relevant procedure relating to the complaint is stated.

- Child protection and safeguarding: complaints should be raised with the Local Authority.
- Curriculum complaints: addressed in the Curriculum complaints Policy.
- Conflict between estranged parents over the application of parental responsibility: complaints will be dealt with having the best interest of the child in mind, with reference to the DFE guidance '*Understanding and Dealing with Issues Relating to Parental Responsibility January 2016*' and with further legal advice if necessary.
- Staff complaints: addressed in the Grievance Policy Procedure.
- Admission complaints: addressed in the Admissions Policy.
- Exclusion appeal: addressed in the Exclusions Policy.
- Whistle blowing: addressed in the Whistle Blowing Policy.

## Objectives and targets

To be effective our complaints procedure will:

- Encourage resolution of problems by informal means wherever possible.

- Be easily accessible and publicised, including to third parties who hire school premises.
- Be simple to understand and use.
- Be impartial.
- Be compliant with the School's obligation under the Equality Act (2010).
- Be non-adversarial.
- Allow swift handling with established time-limits for action and keeping people informed of the progress.
- Ensure a full and fair investigation by an independent person where necessary.
- Respect people's desire for confidentiality.
- Address all the points at issue and provide an effective response and appropriate redress, where necessary.
- Provide information to the school's senior leadership team so that services can be improved.

### **Action plan**

At St Bernard's, the Headteacher has overall responsibility for the operation and management of the school complaints procedure. In practical terms, the Headteacher will nominate a senior member of staff to deal with matters on a day-by-day basis and hold records relating to any complaints received. A complaint from anyone who is not a parent of a student currently attending the school should be addressed to the Headteacher in the first instance.

It is expected that attempts will be made to resolve difficulties informally, calmly and quickly with the subject teacher/Form Tutor/Head of Year before being referred to the Headteacher. The informal stage of the procedure will be exhausted before the matter is referred to the formal stages. If any substantial complaint is made to a member of staff by a parent it will be referred to the Senior Leadership Team line manager or Headteacher, as appropriate, if it cannot be resolved immediately by the member of staff to the satisfaction of the parent.

### **The complainant**

To ensure the most effective response to the concern, the complainant should:

- Express the complaint in full as early as possible.
- Ask for assistance if needed throughout the handling of the complaint.
- Co-operate with the School in its procedures of seeking a solution to the complaint.
- Respond promptly to requests for information or meetings or in agreeing the details of the complaint.
- Treat all those involved in the complaint with respect.

### **The Governors**

When responding to, or making criticism or complaints affecting the school, all Governors must follow the Complaints Policy and procedures, as agreed with the School's Leadership Team.

## The Headteacher/Appointed Investigator

Whenever a formal complaint is received it will be investigated. The Headteacher, or any other nominated member of staff acting on his behalf, will make sure that they:

- Ensure that everyone involved in the complaint procedure is aware of the legislation around complaints including:
  - The Equality Act 2010.
  - Data Protection Act 1998.
  - Freedom of Information Act 2000.
- Are aware of issues regarding:
  - Sharing third party information.
  - Additional support for the complainant when making a complaint, including interpretation where appropriate.
- Provide a comprehensive, open, transparent and fair consideration of the complaint.
- Establish what has happened so far and who has been involved.
- Clarify the nature of the complaint and what remains unresolved.
- Meet with the complainant or contact them if unsure or further information is necessary.
- Clarify what the complainant feels would put things right.
- Interview those involved in the matter and/or those to whom the complaint refers, allowing them to be accompanied if they so wish.
- Conduct the interview with an open mind and be prepared to persist in the questioning.
- Keep notes of the interviews by arranging for an independent note taker to record minutes of all meetings or by recording the meeting for the creation of typed transcript.
- Liaise with staff members, Headteacher, Chair of Governors and Clerk to ensure the smooth running of the complaints procedure.
- Ensure that the complainant is fully updated at each stage of the procedure.
- Identify solutions and recommend courses of action to resolve the problem(s).
- Be mindful of the timescales to respond.
- Respond to the complainant in plain and clear language.
- Keep written records of the progress of all complaints and the final outcomes, and hold these records centrally, since complainants have a right to copies of these records under the Freedom of Information and Data Protection Acts.

## Stages in the Procedure

There are three stages in the School's Complaints Procedure; an informal stage when a member of staff acting on the behalf of the Headteacher (but not the subject of the complaint) will try to resolve the problem, an initial formal stage when the matter is referred to the Headteacher in writing by the complainant as the concern has not been resolved to the complainant's satisfaction via the informal stage and a further formal stage where the matter is referred in writing to the Clerk to the Governors, as the complainant still feels that the matter has not been satisfactorily resolved. This final stage of the process will result in a meeting of the Governors' Complaints Panel.

At each stage in the procedure, we will remain mindful of ways in which a complaint can be resolved. It might be sufficient to acknowledge that the complaint is valid in whole or in part. In addition, it may be appropriate to offer one or more of the following:

- An apology.
- An explanation.
- An admission that the situation could have been handled differently or better.
- An assurance that the event to which the complaint refers will not recur.
- An explanation of the steps that have been taken to ensure that it will not happen again.
- An undertaking to review school policies in light of the complaint.

We encourage complainants to state what actions they feel might resolve the problem at any stage. An admission that the school could have handled the situation better is not the same as an admission of negligence. At all times we will seek to identify areas of agreement between the parties and clarify any misunderstandings that might have occurred because this can create a positive atmosphere in which to discuss any outstanding issues.

The School expects any complaints to be made as soon as possible after an incident arises (although up to three months is acceptable in certain circumstances). Once a formal complaint has been received, the School's cut-off timeframe will apply to both parties. However, the school will consider exceptions to this time-frame from both parties if necessary.

### Stage 1: Informal Stage

On receipt of any complaint, verbal or written, stage 1 of the School's Complaints Procedure will be implemented. If the complaint is received by the Headteacher, he will nominate a member of staff, most likely a member of the senior management team or a Head of Year, to deal with the complaint on his behalf. The member of staff that is nominated to deal with the matter will not be the subject of the complaint.

Most parents' concerns can be adequately resolved by discussion with the subject teacher/Form Tutor/Head of Year or with other members of staff. There may be no need for the complaint to be put in writing, which would formalise matters and may lead parents to feel less prepared to articulate concerns perhaps because of a fear that such action may prejudice the interests of their child. At the end of the meeting or telephone call, the member of staff will ensure that the complainant and the school have the same understanding of what was discussed and agreed. A brief note of the meeting/telephone call will be kept and a copy of any written response added to the record.

If the concern is not met to the parents' satisfaction by discussion then the initial recipient of the complaint should refer the matter to the Headteacher or a member of the senior management team.

The Headteacher, or a nominated member of the senior management team acting on his behalf, will investigate the circumstances of the complaint and may find it appropriate to ask for written statements from staff or pupils and to call for any relevant documentation.

If the complaint is against a member of staff, that member of staff has a right to be given details of the complaint and the opportunity to make representation about it. The person investigating the incident will take these details into account.

The Headteacher, or nominated member of staff, will respond to the complainant with the outcome of the investigation as soon as is possible and certainly within 10 school working days of receipt of the substance of the complaint. The response may be in writing or at a meeting.

The complainant will be asked to refer the matter to the Headteacher in writing within 5 school days if they find the outcome of the informal stage not to be satisfactory. On receipt of the written complaint by the Headteacher, the first phase of the formal stage will be implemented.

### **Stage 2: Formal Stage (First Phase)**

On conclusion of stage 1 of the School's Complaints Procedure, any subsequent written complaint received by the Headteacher, or any other member of staff acting on his behalf, within 5 school days relating to the matter investigated in stage 1 will initiate stage 2, the formal stage, of the School's Complaints Procedure.

The Headteacher, or a nominated member of the senior management team that has not been involved in stage 1 of the procedure to act on his behalf, will investigate the circumstances of the complaint. Where the complaint concerns the conduct of the Headteacher or a Governor, or where the Headteacher or Governor has been involved in the issue previously, then the matter will be referred to a senior member of staff or member of the Governing Body not previously involved. In some circumstances, the School reserves the right to refer the matter to an external body.

The Headteacher, or nominated colleague, will review any documentation gathered as part of the investigation in the informal stage and may find it appropriate to ask for further written statements from staff or pupils and /or to re-interview any member of staff or pupil with information relating to the complaint. If the complaint is against a member of staff, that member of staff has a right to be given details of the complaint and the opportunity to make representation about it. The Headteacher, or nominated colleague, will take these details into account.

The Headteacher or nominated colleague will consider the complaint but it will be the Headteacher who will decide what action is required and respond to the complainant with the outcome of the investigation, normally within 10 school working days of receipt of the substance of the complaint. The response may be in writing or at a meeting with the complainant followed by written confirmation of the outcome.

The complainant will be informed of his or her right to have the matter referred to the Governors' Complaints Panel if the outcome of stage 2 is not considered satisfactory. The time frame in which any appeal must be lodged in writing is 5 school days. Any such request by a complainant should be addressed to the Clerk to the Governors and the Governors' Complaints Panel will be convened.

### **Stage 3: Formal Stage (Second Phase)**

On conclusion of stage 2 of the School's Complaints Procedure, a subsequent written complaint received by the Clerk to the Governors within 5 school days relating to the matter investigated in stage 2 will initiate stage 3 of the School's Complaints Procedure.

When the Clerk receives the written formal request for the Governors to consider a complaint, the Clerk will inform the complainant of the new timescale for the investigation and written report to be provided – usually within 14 school days. However, the length of the investigation will depend on the nature of the complaint and other variable factors. If the investigation is likely to exceed 14 school days, the school will set realistic time limits for each action within the stage. Where such further investigations are necessary, new time limits may need to be set and the complainant will be sent details of the new deadline and an explanation for the delay.

A Governors' Complaints Panel will be assembled comprising three or five members, none of whom have any previous connection to the complaint, and one of whom will act as chair for the meeting. The meeting will additionally have the Clerk in attendance. If the complainant requests an independent panel, the school will consider the request but ultimately the decision as to whether one will be appointed or not will be made by the Governors. The Clerk will write to the complainant, the Headteacher, the Chair of Governors and the members of the panel giving details of the meeting, requesting copies of any documents to be put before the meeting and names of any witnesses who either party may wish to attend. The parent/complainant will be informed of the right to be accompanied by a friend. The hearing should be on reasonable notice and be held as soon as practicable after receipt of the referral.

The Clerk is the contact point for the complainant and will:

- Set the date, time and venue of the hearing, ensuring that the dates are convenient to all parties and that the venue and proceedings are accessible.
- Collate any written material and send it to the parties in advance of the hearing.
- Meet and welcome the parties as they arrive at the hearing.
- Record the proceedings.
- Circulate the minutes of the panel hearing.
- Notify all parties of the panel's decision.
- Liaise with the complaints co-ordinator.

The Chair of the Complaints Panel will ensure that:

- He/she liaises with the Clerk and the Headteacher or nominated colleague.
- No member of the panel has an external interest in the outcome of the proceedings or any involvement in an earlier stage of the procedure.
- The panel is open-minded and acts independently.
- The layout of the room is informal and not adversarial.
- Parents/carers and others who may not be used to speaking at such a hearing are put at ease.
- The hearing is conducted in an informal manner with everyone treated with respect and courtesy.
- All matters discussed will be considered seriously.
- The role of the panel is explained to the complainant and both they and the School have the opportunity of putting their case without undue interruption.

- The meeting is minuted.
- The issues are addressed.
- Both the complainant and the School are given the opportunity to state their case and seek clarity where necessary.
- Key findings of fact are made.
- Written material is seen by everyone in attendance.
- If a new issue arises, a short adjournment of the hearing will take place so that everyone will have the opportunity to consider and comment upon it.

The Governors that make up the panel need to be aware that:

- The aim of the hearing, which will be held in private, is to resolve the complaint and achieve reconciliation between the School and the complainant.
- The panel hearing is independent and impartial, and must be seen to be so.
- Many complainants will feel nervous and inhibited in the setting.
- Extra care must be taken when the complainant is a youngster and that the welfare of the youngster is paramount

The procedure at the hearing will be sensitive in its nature but needs to be appropriate for the circumstances and is at the discretion of the Chair of the Complaints Panel, but is likely to follow the procedure outlined below:

- Introductions
- Presentation of the complaint
- Questions put to the complainant
- Witnesses in support of the complaint
- Questions put to the witnesses
- A reply by the Headteacher or governor
- Questions put to the Headteacher/governor
- Witnesses in support of the school
- Questions put to the witnesses
- A summation by the complainant
- A summation by the Headteacher
- The chair outlines the timescale within which both parties will hear from the panel in writing
- Departure of both parties together, leaving the members of the panel

Members of the panel can ask questions at any time.

The panel can:

- Dismiss the complaint in whole or in part.
- Uphold the complaint in whole or in part.

- Decide on the appropriate action to be taken to resolve the complaint.
- Recommend changes to the school's procedures to ensure that similar problems do not recur.

The panel's decision is final.

After the hearing, the Clerk will offer copies of the minutes of the meeting to all parties involved in the panel hearing and provide an opportunity for the minutes to be agreed and, if necessary, challenged within 5 school days of receipt, so that no additional complaints will arise because of the record of the meeting.

A copy of the findings and recommendations of the panel will be sent by letter to the complainant and, where relevant, to the person complained about, and will be available for inspection on the school premises by the Headteacher.

If the complainant is still not satisfied after all the processes of the School's Complaints Procedure have been undertaken or tries to re-open the same issue, the Chair of Governors will inform them in writing that the procedure has been exhausted, that any further contact from the complainant regarding the same issue is likely to be ignored by the school and that the complainant may approach the local authority, the Diocese or the Schools' Complaints Unit of the DFE.

### **Unreasonable, Habitual or Vexatious Complaints**

Unreasonable Habitual and/or vexatious complainants can be a problem for School staff and Governors. The handling of 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.

It is not necessary for a complaint to have become a Stage 3 complaint before this aspect of the policy can be invoked. Judgement 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.

This aspect of the policy should only be invoked following careful consideration by the Headteacher who has been authorised by the Governing Body to make decisions in such instances as this aspect of the policy may apply. If the complaint is principally or to a reasonable degree against the Chair then authorisation will be from a 3 person panel of the governing body.

No individual may undertake a role in authorisation if he or she was an object of the complaint.

### **Definition of Unreasonable, Habitual and/or Vexatious Complaint**

Each case will be viewed individually and decided on its merits. However a complainant (and/or anyone acting on his or behalf) may be deemed to be habitual or vexatious if previous or current contact shows that they may meet any or all of the following criteria, dependent upon degree.

On the occasion where complainants:

- 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);
- 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 may need to be addressed as separate complaints.

- Are unwilling to accept proper and reasonably documented evidence of action.
- Deny receiving an adequate response in spite of correspondence specifically answering their questions.
- Persist in pursuing a matter when they have already exhausted other statutory routes of appeal.
- Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help them specify their concerns.
- Continue to seek to pursue a complaint where the concerns identified are not within the remit of the Governing body to investigate.
- Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that in determining what is a 'trivial' matter can be subjective and careful judgments must be used in applying this criterion.
- 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.
- Are known to have recorded meetings or face-to-face / telephone conversations without the prior knowledge and consent of other parties involved.
- 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 co-operate 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.
- Makes excessive demands on school time by frequent, lengthy, complicated and stressful contact with staff regarding the complaint in person, in writing, by email and/or by telephone while the complaint is being dealt with.

- Make unreasonable demands on the complaint procedure and fail to accept that these may be unreasonable (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable within the complaints procedure or normal recognised practice)
- 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 School's complaint procedure has been fully and properly implemented and completed including referral to the Department for Education.
- Seeks an unrealistic outcome.

A complaint may also be considered unreasonable if the person making the complaint does so face-to-face, by telephone, in writing or electronically:

- Maliciously.
- Aggressively, using threats, intimidation or violence.
- Using abusive, offensive, aggressive, intimidatory or discriminatory language.
- Harass the member of staff dealing with the complaint.
- Knowing it to be false.
- Using falsified information.
- Publishing unacceptable information in a variety of media such as in social media websites and newspapers.

Any of these will 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.

Where aggression or abusive behaviour has been used, the School may have to:

- Ask the complainant to leave the school premises.
- Inform the police.
- If necessary, bar the complainant from being on School premises.

### **Strategy for Dealing with Unreasonable Habitual or Vexatious Complainants**

Where complainants have been identified as habitual or vexatious under this policy, taking account of the above criteria, the Head and/or Chair will determine what action to take. The complainant will be notified in writing of the reasons why he or she has been classified as habitual or vexatious and what action will be taken and of the review procedure detailed in the next section.

This notification may be copied for the information of others already involved in the complaint or matters closely related to it. A record must be kept of the reasons why a complainant has been classified as habitual or vexatious.

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

- Withdraw all 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. This contact may be limited to essential contact only.
- To restrict contact to liaison through a designated member of staff (and alternative arrangements should that member of staff be absent from College).
- Notify the complainant in writing that the Headteacher and/or 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, ensuring that the criteria outlined in Section 4.3 a) be met.
- In extreme circumstances inform the complainant that unreasonable or vexatious behaviour may result in legal action against them.

### **Appeal / Review Decisions and Withdrawing 'Unreasonable Habitual or Vexatious' Status**

If the person categorised as habitual or vexatious is not satisfied with the decision made 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 relation to any specific decision. Notice of that decision will be given, as far as is practical, within 28 days of receipt of the request

Once a complainant has been determined as habitual or vexatious, such status may be reviewed (as provided below) and if/and when appropriate, withdrawn

Should a complainant wish for their case to be reviewed they should notify the Headteacher in writing following a period of no less than nine months from the time that the complainant was either a) registered as 'habitual or vexatious' or b) following the appeal decision. The Head and/or Chair (or panel) will review this decision. The appeal should be reviewed and a decision relayed to the complainant within 28 days of the receipt of the request to appeal. Should a complainant be registered as 'habitual or vexatious' on three or more occasions then their right to a review will be withdrawn

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

If it is deemed appropriate to withdraw the status of a 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 sent to the clerk who will hold and maintain a central register of such decisions.

### **Repetitive communications**

If an individual is so persistent and vexatious against the school (e.g. with repetitive communications) they should be invited to make a complaint in respect of any issue they are

raising to bring them within the complaints policy. Should they remain vexatious following the outcome of that complaints investigation or if they choose not to follow the complaints process, then the process outlined in Paragraph 4 may be applied.

If communication is so substantial that it becomes unreasonable, all communication will be directed to a Member of the Senior Leadership Team or LA Borough Solicitor who will review all communication to decide how the school should respond in line with this policy.

### **Monitoring and evaluation**

The governing body will monitor the level and nature of complaints using records kept. Statistical information will also be presented to the Governing body with details of complainants who are categorised as habitual and / or vexatious. Wherever possible, complaints information shared with the whole governing body will not name individuals. Policy will be evaluated in the light of complaints made and their resolution and changes made to policy where necessary.

Should the DFE advise the School that the policy or procedures need to be amended; these will be effected as soon as possible. Where changes in legislation require changes to the policy, these will also be introduced as soon as possible.

### **Reviewing**

The governing body will review the outcomes of the monitoring exercise on a termly basis to ensure the effectiveness of the procedure and make changes where necessary.

This policy was adopted by the Full Governing Body on 21<sup>st</sup> March 2018

Next review due: March 2020