



Learn-AT

Learning ~ Fellowship

Dealing with Persistent or Vexatious Complaints or Harassment Policy

LAT012 Version 2 Updated May 2021

Created by: W Burbidge
Approved by: Trustees May 2021
Next Review: May 2024

Table of Contents

1.	Introduction	3
2.	Aims of policy.....	3
3.	Parents' expectations of the academy	4
4.	The trust's expectations of parents/carers/members of the public.....	4
5.	What is a "serial" or "persistent" complaint?	4
6.	Unreasonable Complaints and Complainants	5
7.	Harassment.....	6
8.	Strategy for Dealing with Serial and Persistent Complaints	7
9.	Strategy for Dealing with Unreasonable and Harassing Complainants.	7
10.	New Complaints.....	8
11.	Approval by Learn-AT trustees to implement this policy	8
12.	Review.....	9
13.	Model letter 1:	10
14.	Model letter 2:	11

Please note that this policy supersedes and replaces any equivalent policies or sections of policies. This policy is non contractual and can therefore be amended without consultation. Before you use this policy, please check you have the latest version using the footer reference and Learn-AT Policy Index.

This policy applies to all Learn Academies Trust schools and should be read in conjunction with the latest associated guidance issued by Learn-AT.

Introduction

- 1.1. Learn Academies Trust values a positive partnership with all parents. All members of staff work hard to nurture constructive relationships with families and to engage parents in their children's education and the life of the school. We are committed to serving children and families, and to working with parents to ensure children's safety, achievement and well-being.
- 1.2. The Headteacher and staff deal with specific complaints as part of their day-to-day school management in accordance with the procedure outlined in Learn-AT's Complaints Policy.
- 1.3. The majority of complaints are handled in an informal manner and are resolved quickly, sensitively and to the satisfaction of the complainant.
- 1.4. However, there are occasions when complainants attempt to pursue a complaint beyond the conclusion of the complaints procedure outlined in the Complaints Policy and sometimes behave in an unreasonable manner (see section 6 below) when raising and/or pursuing concerns. These types of behaviours can impact negatively on the day-to-day running of schools and directly or indirectly on the overall well-being of the children or staff. In these exceptional circumstances Learn-AT may act in accordance with this policy.

Aims of policy

- 2.1. The aims of this policy include:
 - 2.1.1. To uphold the standards of courtesy that should characterise all communication between Learn-AT schools and persons who wish to express a concern or pursue a complaint.
 - 2.1.2. To support the well-being of children, staff members and everyone who has a legitimate interest in the work of Learn-AT schools, including local governors and parents.
 - 2.1.3. To deal fairly, honestly, openly and transparently with those who make persistent or vexatious complaints and those who harass members of staff in any Learn-AT school while ensuring that other school stakeholders suffer no detriment.

Parents' expectations of the academy

- 3.1. Parents/carers/members of the public who raise either informal concerns or formal complaints with any Learn-AT school can expect the school to:
 - 3.1.1. communicate regularly to parents/carers in writing
 - 3.1.2. explain how and when problems can be raised with the school
 - 3.1.3. signpost the complainant to Learn-AT's Complaints Policy
 - 3.1.4. highlight the existence of the policy for dealing with persistent or vexatious complaints and/or harassment in schools
 - 3.1.5. respond within a reasonable time
 - 3.1.6. be available for consultation within reasonable time limits bearing in mind the needs of the pupils within the school and the nature of the complaint
 - 3.1.7. respond with courtesy and respect
 - 3.1.8. attempt to resolve problems using the Learn-AT Complaints Policy, other policies and practice and keep complainants informed of progress towards a resolution of the issues raised.

The trust's expectations of parents/carers/members of the public

- 4.1. Learn-AT expects parents/carers/members of the public who wish to raise problems with any Learn-AT school to:
 - 4.1.1. treat all school staff with courtesy and respect
 - 4.1.2. respect the needs and well-being of pupils and staff in the school
 - 4.1.3. avoid any use, or threatened use, of violence or intimidation¹ to people or property
 - 4.1.4. avoid any intimidating behaviour, aggression or abuse (either verbal or written, for example, in social media contexts)
 - 4.1.5. recognise the time constraints under which members of staff in schools work and allow the school adequate time to respond
 - 4.1.6. recognise that resolving a specific problem can sometimes take some time
 - 4.1.7. recognise that the time spent on dealing with all complaints should be proportionate to the nature of the complaint and consistent with the outcome that is being sought being realistic and achievable.
 - 4.1.8. (in the case of a complaint) follow the Learn-AT Complaints Procedure.

What is a "serial" or "persistent" complaint?

- 5.1. Despite the Trust's best endeavours, there may be occasions when a complainant

¹ These will necessarily be according to the perception of the person at the receiving end of the behaviour.

remains dissatisfied. Where all stages of the Complaints Policy have been exhausted and the Complainant tries to re-open the **same complaint**, they will be informed that the procedure has been completed and the complaint matter is now closed.

- 5.2. For the purpose of this policy, a persistent complaint is one brought by a parent/ carer or member of the public who raises the **same complaint** as one which has already completed the complaints procedure. In such cases the Academy or Trust may view the complaint as 'serial' or 'persistent' and may choose not to respond.
- 5.3. The Complaint should **not** be marked as being 'serial' or 'persistent' until all stages of the complaint process have been completed. Under no circumstances should a complaint be marked as 'serial' if the Complainant exercises their right to refer their complaint to their MP, regardless of which stage the complaint has reached.
- 5.4. The Trust and its Academies will **not** refuse to accept further correspondence or complaints from an individual with whom they have had repeat or excessive contact. The application of a 'serial' or 'persistent' marking should be against the subject of the complaint itself rather than the complainant.

Unreasonable Complaints and Complainants

- 6.1. Under this Policy the Trust reserves the right not to deal with complaints or complainants which are unreasonable to the point that they can be described as as either "Frivolous" and/ or "vexatious". For the purpose of this policy, where behaviour has any of the following characteristics, the trust will reserve the right to characterise them as such (this list is not exhaustive):

- 6.2. **Unreasonable Complaints**

- 6.2.1. complaints which are obsessive, persistent, harassing (see Harassment), prolific, repetitious
- 6.2.2. unmeritorious complaints and/or unrealistic outcomes
- 6.2.3. meritorious complaints pursued in an unreasonable manner (see Unreasonable Complainants).
- 6.2.4. complaints which are designed to cause disruption or annoyance
- 6.2.5. complaints which demand redress that lack any serious purpose or value

- 6.3. **Unreasonable Complainants**

For the purposes of this policy the following behaviours are examples of what the Trust consider to amount to unreasonable complainant behaviour. This is not intended to be an exhaustive list:

- 6.3.1. behaving aggressively and provocatively towards the Academy and individual members of staff;
- 6.3.2. changing aspects of the complaint or the desired outcome part way through the investigation and/or after the investigation is completed and

- a conclusion has been reached;
- 6.3.3. refusing to co-operate with the investigation process;
 - 6.3.4. insisting on the complaint being dealt with in ways which are incompatible with the Learn-AT Complaints Policy or with good practice;
 - 6.3.5. making what appear to be groundless complaints about the staff dealing with the complaint, and seeking to have them replaced by someone more senior or with a person the complainant names;
 - 6.3.6. refusing to accept information provided, for no justifiable reason;
 - 6.3.7. making statements the complainant knows are not true or persuading others to do so;
 - 6.3.8. supplying manufactured 'evidence' or other information the complainant knows is incorrect;
 - 6.3.9. raising a large number of detailed but unimportant questions and insisting that they are all fully answered;
 - 6.3.10. pressing for further investigation of matters that have already been addressed, and/ or persistently sending communications which demand responses, or making telephone calls seeking interviews with staff, after the Academy has completed its investigation;
 - 6.3.11. electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved;
 - 6.3.12. using obscene, racist, offensive or threatening language in written or verbal communications;
 - 6.3.13. threatening or aggressive or abusive behaviour in direct personal contact with staff;
 - 6.3.14. using Freedom of Information requests that amount to vexatious or repeated requests under s14 Freedom of Information Act.
 - 6.3.15. insisting 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;
 - 6.3.16. actions which are obsessive, persistent, harassing, prolific, repetitious
 - 6.3.17. refusing to fully specify the grounds of a complaint, despite offers of help
 - 6.3.18. demanding redress that lacks any serious purpose or value or which are beyond what the school or trust has the legal power to do
 - 6.3.19. complainants publicising details of their displeasure with the school or trust and any of its staff members either on social media or otherwise.

Harassment

- 7.1. For the purpose of this policy, vexatious complaints or harassment are the unreasonable pursuit of such actions as those outlined above in such a way that

they:

- 7.1.1. appear to be targeted over a significant period of time on one or more members of trust/school staff and/or
- 7.1.2. cause ongoing distress to individual member(s) of trust/school staff and/or
- 7.1.3. have a significant adverse effect on the whole/parts of the trust/school community and/or
- 7.1.4. 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 and/or
- 7.1.5. use derogatory, threatening or abusive language including swearing

Strategy for Dealing with Serial and Persistent Complaints

- 8.1. Where a Parent/ carer or member of the public who raises the **same complaint** as one which has already exhausted the complaints procedure the Academy or Trust may view the complaint as 'serial' or 'persistent' and may chose not to respond. The Complaint should **not** be marked as being 'serial' or 'persistent' until all stages of the complaint process have been completed.

Strategy for Dealing with Unreasonable and Harassing Complainants.

Where a complaint is vexatious by way of it being unreasonable or harassing in nature the Academy will take the following actions:

- 9.1. In the first instance the school 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.
- 9.2. This will be confirmed in writing (Model Letter 1).
- 9.3. If the behaviour is not modified the trust will authorise the school to 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 trust/school community:
 - 9.3.1. Inform the complainant in writing that his/her behaviour is now considered by the trust to be unreasonable/unacceptable and, therefore, to fall under the terms of this policy (see Model Letter 2).
 - 9.3.2. 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 (see Model Letter 2).
 - 9.3.3. Inform the complainant that, except in emergencies, all routine communication with the complainant to the school should be by letter

only (see Model Letter 2).

- 9.3.4. In the case of physical, or verbal aggression, take advice from Learn-AT's legal advisers and consider warning the complainant about being banned from the school site; or proceed straight to a temporary ban.
 - 9.3.5. Withdraw contact with the complainant either in person, by telephone, by email, 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.
 - 9.3.6. To restrict contact to liaison through a designated member of staff.
 - 9.3.7. Place limits on the number and duration of contacts with staff per week/month.
 - 9.3.8. Consider taking advice from Learn-AT's legal advisers on pursuing a case under Anti-Harassment legislation.
 - 9.3.9. Consider taking legal advice about putting in place a specific procedure for dealing with further 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 trust, who will investigate, determine whether or not the concern/complaint is reasonable or vexatious and then advise the Headteacher accordingly.
- 9.4. 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 school may resume the process identified above at an appropriate level. In these circumstances advice may be sought from the trust's legal adviser.

New Complaints

- 10.1. Legitimate new complaints may still be considered even if the person making them is, or has been, subject to this policy. However, the school will be advised by Learn-AT's legal advisor.

Approval by Learn-AT trustees to implement this policy

- 11.1. The decision to implement this policy will be taken by the Learn-AT Trust Board. The Trustees will first confirm that:
 - they are satisfied that there are no whistle-blowing or safeguarding issues related to the complaint under consideration
 - the Learn-AT Complaints Policy has been implemented appropriately
 - the complainant's individual circumstances have been taken into account including such issues as age, disability, gender, race, ethnicity, religion or belief.
- 11.2. If it is known or suspected that the complainant has any special needs, Trustees should consider offering an independent advocate to assist the complainant with

their communication with the school/trust.

Review

- 12.1. Learn-AT will review as appropriate, and at a minimum once in a school year, any sanctions applied in the context of this policy.
- 12.2. Once a complainant has been determined as Unreasonable 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.
- 12.3. A panel of 3 governors will review their decisions to categorise a complainant as Unreasonable every six months.
- 12.4. The panel on review may either withdraw the categorisation of a person as Unreasonable or amend the strategy being applied to that person.
- 12.5. If the panel considers it appropriate to withdraw the status of Unreasonable complainant, normal contact with the complainant and application of the Academy's complaints procedure will be resumed. The complainant will be given notice of this decision forthwith.
- 12.6. Copies of all decisions relating to the categorisation of a person as an Unreasonable complainant will be sent to the clerk who will hold and maintain a central register of such decisions.
- 12.7. The Trust will at all times act reasonably and consider any new complaint. Anyone has the right to raise a new complaint (albeit in a reasonable manner) at any time and failure to respond could result in the school failing to act reasonably. The Trust will not stop responding just because an individual is difficult to deal with or ask complex questions. The Trust will only refuse to respond to Complainants once the following actions have been completed:
 - 12.7.1. Every reasonable step to address the complainant's concerns has been taken;
 - 12.7.2. The Complainant has been given a clear statement of the Trust's position and their options;
 - 12.7.3. The Complainant contacts the Trust repeatedly, making substantially the same points each time.

Model letter 1:

Initial letter informing a complainant that his/her behaviour is considered to fall below a reasonable/ acceptable standard

Recorded delivery

Dear

This letter is to inform you that the school considers your actions in [describe actions and behaviour] on when you, to be unreasonable/unacceptable [delete as appropriate].

We would ask you to bear in mind that such behaviour on a school site can be disruptive and distressing to pupils, staff and parents/carers [delete if behaviour complained of did not occur on school site e.g. persistent use of e-mail, verbally abusive telephone calls].

We are aware that you have raised some concerns and would advise you that these are usually dealt with most effectively through Learn-AT's Complaints Policy.

At the moment we are dealing with these issues by [describe actions being taken to resolve concern].

Please note that Learn-AT's Policy for Dealing with Persistent or Vexatious Complaints/Harassment sets out standards of behaviour expected of all people in their dealings with the school. These include:

- behaving reasonably
- treating others with courtesy and respect
- resolving complaints using Learn-AT's Complaints Procedure
- avoiding intimidating behaviour, physical and verbal aggression at all times.
- The Policy also indicates the steps that we may take if these standards are breached. These include:
 - making special arrangements for meetings and communication with the school
 - considering a ban from the school premises
 - considering legal action.

I would ask that you allow school time to resolve the issues according to the correct procedures and would assure you that we shall take every step to move this process forward as quickly as possible.

Yours sincerely

Headteacher

Model letter 2:

Informing a complainant that his/her behaviour is now considered to fall under the terms of the policy for dealing with persistent or vexatious complaints/ harassment

Recorded delivery

Dear

You will recall that I wrote to you on [insert date] telling you that I felt your behaviour was unreasonable.

I am now writing to inform you that in view of your behaviour on [date], when you [describe actions/behaviour] Learn Academies Trust Board has decided that the trust's Policy for Dealing with Persistent or Vexatious Complaints/Harassment Policy will apply from the date of this letter.

In the circumstances I have made the following arrangements for your future contact with the school:

[*Delete A or B as applicable]

*A For the foreseeable future, should you wish to meet with any member of staff, I would ask you to note:

- a. All routine communication, including any request for a meeting between you and the school, will be by letter only. Letters from you need to be addressed to at the school address; email correspondence will not be responded to.
- b. An appointment will be arranged and confirmed in writing as soon as possible.
- c. A third party from the school will be present.
- d. In the interests of all parties, formal notes of this meeting will be made.

*B For the foreseeable future, all meetings arising from any written communication with the school will not be conducted by a member of staff but will be conducted by representing the school. I would ask you to note:

- a. All routine communication, including any request for a meeting between you and the school, will be by letter only. Letters from you need to be addressed to at the school address; email correspondence will not be responded to.
- b. An appointment will be arranged and confirmed in writing as soon as possible.
- c. A third party will be present.
- d. In the interests of all parties, formal notes of this meeting will be made.

Exceptionally, these arrangements do not apply to any emergency involving [insert name of pupil] – in which case you should contact the school in the usual way.

While these arrangements are in place, with respect to normal access to information available on parents' evenings, this will be provided in a summary written report.

These arrangements take effect immediately.

If you wish to make a representation about the contents of this letter, which may include

any expressions of regret on your part and any assurances that you are prepared to give about your future good conduct, you can do so by writing to me at the school by [state ten working days from the date of the letter]. If on receipt of your comments I consider that the arrangements outlined above should continue, you will be supplied with details of how to review a circumstance of your case.

I do hope that the difficulties we are currently experiencing can soon be resolved.

Yours sincerely

Headteacher