



## FOUNDRY COLLEGE

### COMPLAINTS POLICY & GUIDANCE NOTES Including Habitual and Vexatious Complaints Policy

#### Document Control Information

Version	DATE	DESCRIPTION
2	13/11/2014	Minor changes to Policy
3	01/12/2014	Addition of Appendix 1
4	03/03/2015	Amendments to Appendix 1
5	24/10/2017	Governing body → Management Committee, general updates, Appendix 1 incorporated into body of policy. New appendix 1 = template
6	21/11/2018	Inclusion of stakeholders; minor amendments

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Responsibility	Nicky Rees
Committee	Resources
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Signed	John Bayes

**Our College Vision Statement underpins all our policies  
Creating a Safe, Respectful Learning environment for all**

- Excellence that inspires learning, achievement and enjoyment for all.
- Supporting all learners to fulfil their potential in a challenging and safe environment.
- Promoting respect, nurturing the positive and developing skills for life.

**Who is allowed to complain?**

This policy may be used by anyone who has a concern or complaint about any aspect of the College. In the main, this will mean the parents and carers of the college's pupils, but may include parents and carers of pupils who are no longer at the college, neighbours of the college, other stakeholders or any other members of the local community. Every effort will be made to resolve all complaints received. Complaints will always be investigated so that the college can ensure that all statutory duties are being met, and if not, address the issues raised and learn from them - for example child protection issues may only come to light after the pupil has left the college.

**If you have a concern or complaint**

This policy sets out the most suitable and effective process for dealing with the majority of complaints. **Circumstances under which this procedure should not be used can be seen on page 3.** Most concerns are best addressed informally, by discussion with the relevant members of staff or the senior leadership team (SLT). This policy lays out the procedure to be followed if a complainant wants to proceed beyond the informal stage (Stage 0) to a formal and documented process.

**Stage 0 (Informal)**

Any problem or concern should be raised promptly with the class teacher / tutor or member of staff responsible for the area or action you are concerned about. If your concern is more serious, you may prefer to make an appointment to discuss it with a member of SLT. All staff will make every effort to resolve your problem promptly at this informal stage. If you still have concerns, you may want to discuss them with the Headteacher informally, before progressing to the next stage.

**Stage 1 (Headteacher)**

If you are dissatisfied with the informal responses you have had from staff then you may wish to put your concerns in writing to the Headteacher, as a complaint. You should make it clear if you wish the matter to be dealt with as a complaint. The Headteacher will acknowledge the complaint within 3 school days of receiving it and begin an investigation. This will normally be completed within 10 school days of receipt of your letter and a written conclusion will be provided to you. You will be kept informed if more time is needed to complete the investigation.

If your original concern was about an action by the Headteacher personally, and you have already discussed it at the informal stage, then you should put your complaint in writing to the Chair of the Management Committee (Stage 2).

**Stage 2 (Chair of the Management Committee)**

If you are not satisfied with the Headteacher's response, you may contact the Chair of the Management Committee. The Chair's name and contact details are published on the Management Committee page of the college website and are also available from the main office.

You can also write to the Chair of the Management Committee, care of the College at the following address: Brambles Centre, Budes Gardens, Wokingham, RG40 1PX.

The Chair will investigate your complaint and, in most cases, seek to resolve the matter through discussion with yourself and the Headteacher. At the end of this stage the Chair will provide you with a written response. This will normally be within 10 school days, but you will be kept informed if more time is needed.

### **Stage 3 (Management Committee)**

If you are not satisfied with the Chair's response at the end of stage 2, the complaint can be referred to the full Management Committee by writing to the Clerk to the Management Committee, who will acknowledge receipt within 5 school days. The Management Committee will arrange for a panel of three members to investigate your complaint. This will normally be arranged within 15 school days of your complaint being received, depending on the availability of all concerned. You may be invited to speak to the panel at a meeting and you can choose to be accompanied by a friend or representative. You will be asked to submit any written documentation or evidence related to your complaint 5 school days before the meeting. After the meeting, you will be advised of the outcome in writing. This will normally be within 10 school days after the meeting.

See Management Committee Complaints Panel Guidance notes for more detail.

This is the end of the College's complaints process.

If the complainant is dissatisfied they can contact the Secretary of State or Ofsted.

The Secretary of State has the power to consider complaints that the Management Committee has acted unreasonably in the discharge of any of its statutory duties.

Her Majesty's Chief Inspector (Ofsted) has the power to investigate complaints about the college as a whole (standards of education, welfare of pupils and school management). Ofsted will not normally investigate cases to do with individual pupils.

Complainants may seek advice from the Department for Education at [www.dfe.gov.uk](http://www.dfe.gov.uk) or from the Advisory Centre for Education at [www.ace-ed.org.uk](http://www.ace-ed.org.uk) or on their helpline which is available on Monday - Thursday 10am-1pm term time only on 0300 0115142

### **Circumstances under which this procedure should not be used-**

This guidance does not refer to areas where Wokingham Borough Council (WBC), as the Local Authority (LA), has the lead role or for which separate appeal arrangements are provided. These include:

- Pupil admissions
- Pupil exclusions
- Statutory Assessment of Special Educational Needs

Issues related to child protection, whistleblowing, criminal investigations and employee grievances must also all be dealt with separately from this policy.

This complaints policy is distinct from formal staff disciplinary proceedings and this should be made clear to all concerned. There may be occasions where a complaint gives rise to disciplinary

procedures which will put the complaints process on hold. If and when this occurs, the complainant should be informed. Any non-disciplinary aspects of the complaint should continue to be dealt with through the usual complaints procedures.

This policy does not cover complaints made against WBC. Any complaint of this sort should be dealt with in accordance with the Council's '*Corporate Complaints Procedure*'.

## **MANAGEMENT COMMITTEE COMPLAINTS PANEL - GUIDANCE NOTES**

### **1 Terms of Reference**

The panel must be convened according to the complaints procedure published by the college as part of their complaints policy. All parties should have received a copy of the procedures.

### **2 Composition**

The panel must consist of three Management Committee (MC) members previously unconnected with the case. This would usually exclude the Chair of the MC if they have had prior involvement. If this is not possible, given the size of the MC, LA members or other governors from other schools may be invited to the panel.

The Chair of the panel is agreed by the other members of the panel.

The meeting must be minuted by a nominated clerk who is usually the Clerk to the Management Committee.

The minutes must be an accurate representation of what happens at the meeting. The minutes are confidential.

### **3 Chair's Introduction**

- Welcome and introduce everyone in the room and their role in the proceedings. Those present will be the panel members, the Clerk, the Headteacher (or the person representing the college), the complainant (both parties are entitled to be accompanied by a friend or relative)
- Witnesses in support of either the college or the complainant should wait outside the room until called.
- Explain the reason for the panel being held – to offer a fresh and fair look at the complaint from stage 2, as defined in the complaints procedures.
- Explain that the panel cannot consider new complaints at this stage.
- Explain the structure of the meeting.
- Explain that the panel will deliberate separately, in private, after the meeting and their conclusions will be sent out to all parties within 5 school days.
- Ensure that everyone has a copy of the papers including a copy of the complaints procedure.
- Check that everyone understands all of the above.

The Chair must ensure that:

- There is a clear written statement of the complaint which is the same as the complaint previously investigated. It may be appropriate to clarify if any aspects of the complaint fall outside the remit of the panel.
- There is a clear statement of the outcomes desired.

#### **4 Structure of the Meeting**

- a) The complainant will be given the opportunity to explain their complaint.
- b) The panel and the Headteacher (or person representing the college) will be allowed to ask the complainant questions.
- c) The Headteacher (or person representing the college), will be given the opportunity to present the college's response, interpretation or view about the complaint.
- d) The panel and the complainant will be allowed to ask the Headteacher (or person representing the college) questions.
- e) At the panel's discretion, witnesses may be called and heard in support of either party's representations, and if so, may be questioned by the panel and either party.
- f) The complainant will be given the opportunity to make a final statement.
- g) The Headteacher (or person representing the college) will be given the opportunity to make a final statement.
- h) The Chair will confirm with both parties that they have had the opportunity to put their case.
- i) The Chair will thank all for attending and explain that the panel will deliberate separately in private and a letter setting out the panel's conclusions will be sent out within 5 school days.

#### **5 Deliberation and Conclusion**

The main points of the complaint must all be addressed.

- For each point, the panel need to explain their findings based on fact, where possible.
- The panel need to consider the outcomes requested and agree or disagree giving reasons.
- The panel can make recommendations to either the Headteacher or Management Committee
- The concluding letter must be signed by the Chair of the panel.
- It will be sent out promptly and within 5 school days of the meeting.
- The letter should indicate that this is the final stage of the college's complaints procedure. Where relevant, it should refer the complaint to other available avenues if dissatisfied with the outcome.

### **HABITUAL OR VEXATIOUS COMPLAINTS POLICY**

#### **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 or vexatious' and ways of responding to these situations.

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'. 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 staff and Management Committee by pursuing an unreasonable course of conduct.

This Appendix covers requests made under the Freedom of Information Act 2000, the General Data Protection Regulations 2018, and the Environmental Information Regulations 2004, and reference to the complaints procedure is, where relevant, to be interpreted as meaning requests under those Acts.

## **Scope**

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 stage 3 complaint before this 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.

The policy should only be invoked following careful consideration of all the issues by the Headteacher and the Chair of Management Committee after an attempt has been made to reason with the complainant and it has been explained to them what it will mean if the habitual and vexatious policy is invoked. Authorisation to invoke the policy must be made in consultation with and on the advice of a panel of 3 members of Management Committee, in person or via email. In an emergency the Chair of Management Committee or, if unavailable, the Vice Chair of Management Committee, may give authorisation pending ratification by the panel of 3 members of Management Committee. The decision to invoke the policy must be reported to the full Management Committee.

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

## **Definition of Habitual or Vexatious Complainant**

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 or vexatious if previous or current contact with them shows that they may meet any or all of the following criteria, dependent upon degree.

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 Management Committee 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
- (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 Management Committee to investigate
- (i) 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 determining what a 'trivial' matter is can be subjective and careful judgements 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, text or fax. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement 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. WBC Children's Services 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 Director of Children's Services. 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 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 using the template Appendix 1
- (m) are known to have recorded meetings or telephone conversations and circulated such records to third parties without the prior knowledge and consent of other parties involved
- (n) make unreasonable demands and fail to recognise 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 recognised practice

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

Where complainants have been identified as habitual or vexatious under the scope of this policy, taking account of the above criteria, the Authorising Officers (Headteacher and Chair of Management Committee or if unavailable the Vice Chair of Management Committee) will determine what action to take. The Clerk may 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.

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, staff, Members of Parliament, Members of WBC. A record must be kept, for future reference, of the reasons why a complainant has been classified as habitual or vexatious.

It may be decided 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 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 or advocate.
- (c) Notify the complainant in writing that the Management Committee 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 Management Committee shall not, without the consent of the LA, withdraw or not provide any services to which the complainant or his/her family are entitled to receive.

## **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.

A panel of 3 members of Management Committee should review their decisions to categorise a complainant as habitual or vexatious every six months.

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. The complainant will be given notice of this decision 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.

### **Monitoring Arrangements**

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

### **General**

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

**APPENDIX 1**

Date/Time	Behaviour of concern including names of those involved	Action taken	Resolution