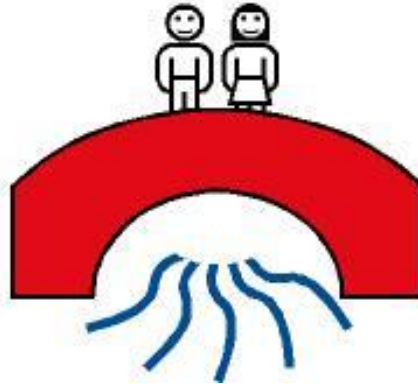


# Loddon Primary School



## Complaints Policy (including Appendix 1: Habitual or Vexatious complaints)

Author: WBC Model Policy

Committee responsible: Full Governors

Date of last review: May 2017

Date of next review: May 2019

Authorised on: 24 May 2017

\_\_\_\_\_ (signature)

Sarah Phillips

Headteacher

\_\_\_\_\_ (signature)

Rob Henderson

Chair of Governors

## **Legal context**

From September 2003 governing bodies of all maintained schools and nursery schools in England are required, under Section 29 of the Education Act 2002, to have in place a clear and well communicated procedure to deal with complaints.

The School Standards and Framework Act 1998 provided an additional function of the governing body to establish and publish procedures for dealing with complaints relating to the school, other than those covered by legislation and formal procedures elsewhere.

**Circumstances under which this procedure should not be used- See end of policy. Page 3 and 4**

## **Who is allowed to complain?**

This policy may be used by anyone who has a concern or complaint about any aspect of the school. In the main this will mean the parents and carers of the school's pupils, but may include parents and carers of pupils who are no longer at the school, neighbours of the school, 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 school 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 school.

## **Aims and objectives of the policy**

This complaints policy aims to:

- Encourage the resolution of problems by informal means wherever possible;
- Ensure that concerns are dealt with quickly, fully and fairly and within clearly defined time limits;
- Provide effective responses and appropriate redress;
- Maintain good working relationships between all people involved with the school.

## **Circumstances under which stages of the procedure should be missed out**

There are 3 stages outlined in the complaints procedure:

Stage 1 Referral to Head Teacher

Stage 2 Complaint referred to Chair of Governors

Stage 3 Review by governing body complaints panel

This policy sets out the most suitable and effective process for dealing with the majority of complaints which are not covered by alternative procedures (see page 3 and 4). In most cases any concern or complaint, regardless of whose attention it is initially brought to, should be discussed informally before being escalated to any of the following formal stages.

In some cases, it may be deemed inappropriate for individuals to discuss their concerns informally. In such cases, complainants may be directed to contact the Headteacher directly (i.e. begin at stage 1). Complainants may choose to contact the Headteacher directly of their own accord. In these cases it will be at the discretion of the Headteacher as to whether or not it is appropriate for the complainant to discuss the matter informally before invoking the formal complaints procedure at Stage 1.

In all cases where the complaint concerns the school's Headteacher directly, stage 1 will be missed out and the formal complaints procedure will begin at stage 2.

If and when complaints about the school are brought to the attention of Wokingham Borough Council, complainants will be advised to contact the school and to follow the procedures set out in the school's complaints policy.

### **Monitoring complaints**

At all formal stages of the complaints procedure, the following information should be recorded:

- The name of the complainant;
- The date and time at which complaint was made;
- The details of the complaint;
- The desired outcome of the complainant;
- How the complaint is investigated (including written records of interviews held);
- Results and conclusions of investigations;
- Any action taken;
- The complainant's response (satisfaction or further pursuit of complaint).

The school may choose to appoint a member of staff as a 'complaints co-ordinator'. When this is the case, this individual will have the responsibility for the operation and management of the school complaints policy and will be responsible for monitoring complaints. Records should be retained within school for 6 years from the date of resolution and can then be destroyed.

### **Upholding or not upholding complaints**

At each stage of the complaints procedure, the conclusion will be either:

- 1 That the complaint is upheld (in part or in full) and, where appropriate, some form of action is taken.

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 complained of 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.

Or

- 2 That the complaint is not upheld and reasons for this are clearly given.

The complainant may either choose to take no further action or will be advised of how to take the complaint to the next relevant stage of the complaints policy.

### **Publicity and communication**

There is a legal requirement for schools to publicise their complaints procedures. This policy will be included on the school's website or available through the school office. Schools may make reference to the complaints policy in other school documentation.

### **Confidentiality**

All conversations and correspondence will be treated confidentially. Personal information will only be shared between staff and governors on a 'need to know' basis. Confidentiality will be maintained within the Governing Body to ensure sufficient governors have no prior knowledge of the complaint to enable a complaints panel to be convened, if required, at stage 3.

## **Accompaniment**

It is an expectation that equal respect will be granted to each person involved within the process and that differences between people will be respected and understood. This includes the complainant's right to be accompanied by a friend or relative at discussions and hearings and/or to submit formal complaints which have been written by another individual on their behalf.

## **Support offered by Wokingham Borough Council**

Wokingham Borough Council Children's Services offer advice and guidance to Headteachers and governing bodies who request this additional support when dealing with a complaint.

It is the responsibility of the Local Authority to ensure that schools are implementing their agreed policies. It is not the role of the LA to become involved in setting policy or to intervene in individual cases, but to ensure that agreed policies have been applied appropriately. The responsibility for managing complaints lies with the governing body.

Where there is a serious allegation against the Headteacher or the complaint concerns a point of law, it is recommended that the Governing body seek advice from Governor Services at Wokingham Borough Council from the outset and or Children's Services and or the LADO.

## **Time between stages**

Where a complaint has been considered any request for escalation to the next stage should be submitted within 15 school days of the notification of the outcome or the matter will be considered closed.

## **Changes to time limits and deadlines**

In general, the time limits and deadlines contained within this policy should be adhered to by the school. However, in certain circumstances it may be inappropriate or impractical, for example, if an investigation cannot be conducted due to school holidays or illness.

Where a complaint leads to criminal proceedings this will always be the case.

If and when it becomes necessary to alter the time limits and deadlines set out within this policy, the complainant should be told and given an explanation as to why this has been the case.

## **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, 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 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 Wokingham Borough Council. Any complaint of this sort should be dealt with in accordance with the Council's '*Corporate Complaints Procedure*'.

## **PROCEDURES FOR HANDLING COMPLAINTS**

### **Informal discussion**

#### **Introduction**

The vast majority of concerns can be dealt with informally. There are many occasions where concerns are resolved straight away without the need to submit a formal complaint. Indeed, many concerns raised at this level might not be classified as complaints.

#### **Who to speak to informally**

Individuals may decide to raise their concerns with a member of school administrative staff, class teacher, senior teacher, governor or Headteacher depending on their wishes and the type of issues they want to discuss. Any complaint made to a governor should be discussed with the Chair of Governors before proceeding further and the normal procedure would be to refer them to the Headteacher. Any complaint made to a school employee should be discussed with their line manager and the normal procedure would be to refer them to the Headteacher.

#### **Monitoring**

It is not necessary to record or monitor concerns at this level.

#### **Time scales**

There are no specific time scales for dealing with concerns at this stage. However, as at all stages, issues should be considered and dealt with as quickly and effectively as possible.

#### **Response**

The individual who raised the issue should be informed of any action to be taken to resolve the issue. If appropriate, this might be confirmed in writing.

#### **Options for complainant**

If the individual is dissatisfied with the response they have been given and would like to take their concerns further, they should be referred to the school's complaints procedure.

## **STAGE 1: Referral to the Headteacher**

### **Introduction**

This is the first stage of the formal complaints process and, as a result, all communications between parties need to be carefully recorded and monitored as set out in the 'monitoring complaints' section of this document.

When a complaint is made directly against the school's Headteacher, stage 1 is not required and the formal procedure begins at stage 2.

### **Submitting a formal complaint**

By this stage it must be clear that the concern is a definite complaint which will be dealt with according to this policy and should be formally submitted in writing to the Headteacher.

### **Acknowledgement and time scales**

The Headteacher should formally acknowledge the complaint in writing within 3 school days of receiving it and begin an investigation.

### **The investigation**

The Headteacher will need to investigate the complaint and review any relevant documentation and information. If necessary, the Headteacher will take statements from those involved.

### **Response**

The Headteacher will provide the complainant with a full written response within 10 school days of acknowledging it. This response will determine whether or not the complaint has been upheld, the reasons why, and what action (if any) will be taken. The response will provide details of how to move on to the next stage, if the complainant is not satisfied.

## **STAGE 2: Complaint referred to the Chair of Governors or Vice Chair, if more appropriate**

### **Introduction**

Upon receiving a formally submitted complaint at this stage the Chair of Governors or his/her nominee will seek to resolve the issue with the complainant by other means without the need for a complaints committee review at stage 3.

When a complaint is made directly against the school's Headteacher, stage 1 is not required and the formal procedure begins at stage 2.

### **Submitting a formal complaint**

The complainant must submit a written request to the Chair of Governors who will investigate the complaint or arrange for his/her nominee to investigate it.

Complaints may be sent in writing directly to the Chair of Governors or via the Clerk to the Governors, who will forward them to the Chair of Governors as soon as practically possible after receipt.

### **Acknowledgement and time scales**

The Chair of Governors or his/her nominee should formally acknowledge the complaint, in writing or by e-mail within 3 school days of receiving it and begin an investigation.

### **The investigation**

The Chair of Governors or his/her nominee will need to investigate the complaint and review any relevant documentation and information. If necessary, the Chair of Governors or his/her nominee will take statements from those involved.

### **Response**

The Chair of Governors or his/her nominee will provide the complainant with a full written response within 10 school days of acknowledging it. This response will determine whether or not the complaint has been upheld, the reasons why, and what action (if any) will be taken. The response will provide details of how to move on to the next stage, if the complainant is not satisfied.

## **STAGE 3: Review by Governing Body Complaints Panel**

### **Introduction**

If the complainant remains unsatisfied following an investigation by the Chair of Governors they can ask for their complaint to be referred to a governor complaints panel.

The complaints panel will be clerked by a member of the school staff, the clerk to the governing body or another governor.

### **The Committee**

The Clerk to the Governors shall be responsible for arranging for the appointment of the panel. The Panel will generally consist of three governors who have not previously been involved with dealing with the complaint. If the Governing Body is unable to find three governors without prior involvement and has formal collaboration arrangements in place with another school's Governing Body, independent governors can be drawn from that governing body to sit on the panel. The panel should elect its own chair.

If required, WBC will offer support and guidance to the clerk and/or the members of the complaints panel on procedural issues but will not play any part in reviewing the details of the complaint itself which is the responsibility alone of the complaints panel.

### **Acknowledgement and time scales**

The Chair of Governors should acknowledge receipt of the complainant's letter within 3 school days. This letter will inform them that their complaint will be heard by a complaints panel within 15 school days.

### **Governor Complaints Panel Arrangements**

The Chair of Governors will contact the clerk and ask them to begin making preparatory arrangements.

Once the Clerk has been instructed to prepare for the Panel, the Chair of Governors shall play no further role in the consideration of the complaint, or preparations for the Panel Hearing.

The clerk should then formally write to the complainant, the Headteacher and any other relevant staff or witnesses and inform them:

- Of the date, time and venue of the hearing;
- Their right to attend the hearing
- How it will be conducted;
- Request for any supporting documentation by either the complainant or the school which must be returned to the Clerk in a sealed envelope via the School Office no later than 5 school days before the hearing takes place; this should include any request from supporting witnesses or representatives to attend with either party.
- Of the rights of accompaniment by a friend or relative as outlined in this document. Third parties wishing to attend with the parties may only do so at the discretion of the Panel.

The clerk will ensure that all parties receive all relevant documents at least 3 school days before the date of the hearing so as to allow individuals to familiarise themselves with them. Documents shall be placed by the Clerk in a sealed envelope and delivered to the parties via the School Office. The School Office shall hold the documents in a secure location until they are collected in person by the parties at the date and time specified by the Clerk. All parties shall receive formal notification of the date and time that the documents may be collected at the School Office.



### **Governors Complaints Panel Meeting**

The Chair should allow each party involved to explain their understanding or interpretation of events and for the Panel to question them for further clarification. Complainants do not have to attend the Panel meeting if they would prefer not to, and, if this is the case, all written evidence will be considered.

Ultimately, the Chair of the meeting has control over its proceedings.

### **After the Panel meeting**

The panel will then consider the complaint and all the evidence presented and:

- Reach a majority decision, on the complaint;
- Decide or recommend upon the appropriate action (if any) to be taken;
- Where appropriate, suggest changes to, or request a review of, the school's systems or procedures to ensure that problems of a similar nature do not happen again.

This information will be included in letters to both the Headteacher and the complainant. A copy of the minutes of the Panel meeting shall also be provided to the parties. See Governors Complaints Panel Guidance notes for more detail.

### **Options for complainant**

This is the end of the schools complaints process. If the complainant is not satisfied they can contact the Secretary of State or Ofsted. This information shall also be contained in the decision letter sent to the parties at the conclusion of the complaints process.

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

The Chief Inspector (Ofsted) has the power to investigate complaints about the school as a whole. (Standards of education, welfare of pupils and school management). Ofsted will not normally investigate cases to do with individual pupils.

Parents may seek advice from the Department for Education at <https://www.gov.uk/government/organisations/department-for-education> 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 on 0800 800 5793

## **GOVERNOR COMPLAINTS PANEL GUIDANCE NOTES**

### **1 Terms of Reference**

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

### **2 Composition**

The panel must consist of three governors previously unconnected with the case. This would usually exclude the Chair of Governors if he/she has had prior involvement.

The Chairman 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 governing body.

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

### **3 Chairman'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 school), the complainant (both parties are entitled to be accompanied by a friend or relative)
- Witnesses in support of either the school 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 procedures.
- Check that everyone understands all of the above.

The Chairman 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 school) will be allowed to ask the complainant questions.
- c The Headteacher (or person representing the school), will be given the opportunity to present the school'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 school) 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 school) will be given the opportunity to make a final statement.
- h The Chairman will confirm with both parties that they have had the opportunity to put their case.
- i The Chairman 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 governing body.
- The concluding letter must be signed by the Chairman of the panel.
- It will be sent out promptly and within 5 schools days of the meeting.
- The minutes of the meeting shall be reviewed by the Panel and sent to all parties, ideally with the decision letter but, if this is not possible, within 3 school days of the letter being sent.
- The letter should indicate that this is the final stage of the schools complaints procedure. Where relevant, it should refer the complaint to other available avenues if dissatisfied with the outcome.

## **Appendix 1 : Habitual or vexatious complaints**

### **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 governors by pursuing an unreasonable course of conduct.

The term complainant in this policy includes requests made under the Freedom of Information Act 2000, the Data Protection Act 1998, and the Environmental Information Regulations 2004, and reference to the complaints procedure is, where relevant, to be interpreted as meaning requests under those Acts.

Habitual and/or vexatious complainants can be a problem for school staff and governors. The difficulty in handling 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 to assist or to rectify a real or perceived problem.

### **Scope of Policy**

This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints under the school's complaints procedures. However it is not necessary for a complaint to have become a level 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 Governors 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 governors. In an emergency the Chairman of Governors or if unavailable the Vice Chair of Governors may give authorisation pending ratification by the panel of 3 governors. The decision to invoke the policy must be reported to the full governing body.

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 Governing body 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 Governing body 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 is a 'trivial' matter 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 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, Childrens 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
- (m) are known to have recorded meetings or telephone conversations or circulated such records to third parties without the prior knowledge and consent of other parties involved
- (n) make unreasonable demands and fail to accept 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 Governors or if unavailable the Vice Chair of Governors) will determine what action to take. The Clerk will 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 fax, 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.
- (c) Notify the complainant in writing that the Governing body has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should be notified that any form of contact, either orally or in writing, in relation to their complaint, or any further complaints relative to the same period of time, or the same or similar issues as an earlier complaint, is at an end, and that further contact received will be acknowledged but not answered.
- (d) Temporarily suspend, for a period to be specified to the complainant, all contact with the complainant, provided that the Governing body 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 governors 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 Governing body with details of complainants who are categorised as habitual and / or vexatious.

**General.**

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

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