

Drayton Parslow Parish Council

VEXATIOUS COMPLAINTS PROCEDURE

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VEXATIOUS COMPLAINTS PROCEDURE

A policy for dealing with abusive, persistent or vexatious complaints and complainants

1 Introduction

Whilst the Parish Council wishes to be open and transparent and to provide as much information as possible about the work it does there are occasions when it might be necessary to decide that a request or complaint is “vexatious”. Parish Councils have limited resources and that their obligations to respond to complaints must be proportionate to those resources.

It is recognised that complainants can use repeated FOI or Subject Access Requests as a means of perpetuating a complaint which has been determined and therefore the term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 2018 as well as those made under the Council’s complaints procedure.

In the case of FOI requests Public authorities do not have to comply with vexatious requests. There is no requirement to carry out a public interest test or to confirm or deny whether the requested information is held.

The key question is whether the request is likely to cause **a disproportionate or unjustified level of disruption, irritation or distress**. There is no exhaustive list of circumstances. Every case is unique and judged within the context and history of that specific situation.

In any case, the Parish Council will not tolerate deceitful, abusive, offensive, threatening or other forms of unacceptable behaviour or language, spoken or written from complainants. When it occurs, we will take proportionate action to protect the wellbeing of councillors and the Clerk and the integrity of our processes.

In this policy the term habitual means ‘done repeatedly 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’.

2 Habitual or Vexatious Complainants

2.1 Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the Parish Council will treat the complainant as a habitual or vexatious complainant for the appropriate course of action to be taken. Section 4 details the policy for dealing with habitual or vexatious complaints.

3 Definitions

3.1 For the purpose of this policy the following definitions of habitual or vexatious complainants will be used:

The repeated and/or obsessive pursuit of:

- a. unreasonable complaints and/or unrealistic outcomes; and/or
 - b. reasonable complaints in an unreasonable manner.
- 3.2 Examples include the way in which, or frequency with which, complainants raise their complaints with staff or how complainants respond when informed of the Council's decision about a complaint.
- 3.3 Features of an unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category):

An unreasonably persistent and/or vexatious complainant may:

- have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious).
- refuse to specify the grounds of a complaint despite offers of assistance or help
- refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure.
- refuse to accept that issues are not within the power of the Council to investigate, change or influence.
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (e.g. insisting that there must not be any written record of the complaint).
- make what appear to be groundless complaints about the staff dealing with the complaints, and/or groundlessly seek disciplinary sanctions against the staff.
- make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint or complaints.
- make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to questions, frequent and/or complex letters, telephone calls or e-mails).
- harass or verbally abuse or otherwise seek to intimidate councillors or staff dealing with their complaint, by use of foul or inappropriate language or by the use of offensive and/or racist language or by making libellous accusations or by publishing their complaints in other forms of media.
- introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on.
- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
- deny statements he or she made at an earlier stage in the complaint process.
- are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved.
- adopts a 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Council, but at the same time with, for example, a Member of

Parliament, other Councils, elected Councillors of this and other Councils, the Council's Independent Auditor, the Standards Board, the Police, other public bodies or solicitors.

- submit falsified documents from themselves or others
- refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given.
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure.
- persistently approach the Council through different routes or other persons about the same issue.
- persist in seeking an outcome which Council has explained is unrealistic for legal or policy (or other valid) reasons.
- refuse to accept documented evidence as factual.
- complain about or challenge an issue based on an historic and/or an irreversible decision or incident.
- combine some or all of these features.

4. Imposing Restrictions

- 4.1 In the first instance the Parish Council will instruct the Clerk to contact the complainant in writing, or by e-mail, and send a copy of this policy to the complainant to give them prior notification of its possible implementation and to explain why their behaviour is causing concern and ask them to change this behaviour and outline the actions that the Council may take if they do not comply.
- 4.2 If the disruptive behaviour continues, the Parish Council will instruct the Clerk to issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the Parish Council in future will be restricted, and inform the complainant in writing of what procedures have been put in place and for what period.
- 4.3 Any restriction that is imposed on the complainant's contact with the Council will be appropriate and proportionate and the complainant will be advised of the period of time over which that the restriction will be in place.
- 4.4 Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
- banning the complainant from making contact by telephone except through a third party e.g. a solicitor, a Councillor or a friend acting on their behalf.
 - banning the complainant from sending emails to individual councillors and/or the clerk and insisting they only correspond by postal letter.
 - requiring contact to take place with only one named employee or member of the Parish Council or with a solicitor.
 - restricting telephone calls to specified days and/or times and/or duration

- requiring any personal contact to take place in the presence of an appropriate witness.
 - letting the complainant know that the Parish Council will not respond to or acknowledge any further contact from them on the specific topic of that complaint.
- 4.5 When the decision has been taken to apply this policy to a complainant, the Parish Council will instruct the Clerk to contact the complainant in writing to explain:
- why the decision has been taken.
 - what action has been taken.
 - the duration of that action.
- 4.6 The Clerk will enclose a copy of this policy in the letter to the complainant.
- 4.7 Where a complainant continues to behave in a way that is unacceptable, the Parish Council may decide to refuse all contact with the complainant and stop any investigation into his or her complaint. (But see section 5.)
- 4.8 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, other options will be considered, e.g. the reporting of the matter to the police or taking legal action. In such cases, the complainant may not be given prior warning of that action.
- 4.9 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on Council's contact with him or her, will be recorded and notified to the Council.

5 New complaints from complainants who are treated as abusive, vexatious or persistent

- 5.1 New complaints from people who have come under this policy will be treated on their merits. The Parish Council will decide whether or not any restrictions that have been applied before are still appropriate and necessary in relation to the new complaint. A blanket policy is not supported, nor is ignoring genuine service requests or complaints where they seem well-founded or the complainant is providing significant new information.

6 Review

- 6.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Parish Council after six months and at the end of every subsequent six months within the period during which the policy is to apply, or by the next Full Council Meeting.
- 6.2 The complainant will be informed of the result of this review if the decision to apply this policy has been changed or extended.

7 Record Keeping

- 7.1 The Clerk will retain adequate records of the details of the case and the action that has been taken. Confidential records will be kept of:
- the name and address of each member of the public who is treated as abusive, vexatious or persistent, or any other person who so aids the complainant.
 - when the restrictions came into force and end
 - what the restrictions are
 - when the person and Council were advised.