

WIGGENHALL ST GERMANS PARISH COUNCIL

UNREASONABLY PERSISTENT AND/OR VEXATIOUS COMPLAINANTS POLICY

Adopted 9 Mar 2020

Reviewed Jan 2024

1 Introduction

1.1 Generally, dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the Council. This can happen either while their complaint is being investigated, or once the Council has finished dealing with the complaint.

1.2 If a complainant behaves in a way that is unreasonably persistent or vexatious, the Council will follow this policy.

2 Principles

2.1 The Council is committed to dealing with all complaints equitably, comprehensively, and in a timely manner.

2.2 The Council does not normally limit the contact which complainants have with the Council staff.

2.3 The Council does not expect staff to tolerate unacceptable behaviour by complainants or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening. The Council will take action to protect staff from such behaviour.

3 Aim of this policy

3.1 The aim of this policy is to contribute to the Council's overall aim of dealing with all complainants in ways which are demonstrably consistent and equitable.

3.2 It sets out how the Council will decide which complainants will be treated as vexatious or unreasonably persistent, and what the Council will do in those circumstances.

4 Definition

4.1 The Council defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their or other people's complaints. The descriptions 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.

4.2 There is a difference between 'persistent' complainants and 'unreasonably persistent' complainants. Item 7 give examples of 'unreasonable' and 'vexatious' behaviour to help the Council determine this difference. Examples include the way or frequency that complainants raise their

complaint with the Council, or how complainants respond when informed of the Council's decision about the complaint.

4.3 There is a difference between 'unreasonably persistent' and 'vexatious' complainants. A vexatious person in this context is someone who is not seeking to resolve a dispute between themselves and the Council but is seeking to cause unnecessary aggravation or annoyance to the Council.

4.4 Unreasonably persistent complainants or vexatious complainants may have justified complaints or grievances but are pursuing them in inappropriate ways. Alternatively, they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and settled.

Their contacts with the Council may be amicable but still place very heavy demands on the Clerk's time, or they may be distressing for all involved.

5 Decision

5.1 Before making the decision to apply this policy, some or all of the following steps may be taken:

a) The Council will ensure that the complaint is being, or has been, investigated properly according to the complaints procedure.

b) Although each complaint is unique, the Council will deal with the complaint in line with other complaints of a similar nature in order to apply a consistent approach.

c) The Council will contact the complainant to:

i. discuss his or her behaviour,

ii. explain why this behaviour is causing the Council concern,

iii. ask him or her to change this behaviour, and

iv. explain about the actions that the Council may take if his or her behaviour does not change.

d) If the complainant has not already had a meeting about the complaint with the Clerk, and provided that the Council knows nothing about the complainant which would make this inadvisable, the Council will consider offering the complainant a meeting with the Clerk and/or the Council. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution.

5.2 The decision to apply this policy:

a) will be an exceptional step, and

b) will be taken at a meeting of the Full Council.

5.3 Any restriction that is imposed on the complainant's contact with the Council will be appropriate and proportionate.

5.4 When the decision has been taken to apply this policy to a complainant, the Council will contact the complainant in writing (and/or as appropriate) to explain:

- a) why the Council has taken the decision,
- b) what action the Council is taking, c) the duration of that action, and d) the review process of this policy.

5.5 The Council will enclose a copy of this policy in the letter to the complainant, or if it is necessary that contact with the complainant is not primarily in writing, the Council will offer appropriate support to explain the policy.

5.6 Where a complainant continues to behave in a way which is unacceptable, the Council may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

5.7 Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Clerk, the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the Council may not give the complainant prior warning of that action.

5.8 New complaints from people who have come under this policy will be treated on their merits and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

5.9 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on the Council's contact with him or her, will be recorded and notified to those who need to know within the Council. Information about the complaint will not normally be included in such notification.

6 Review

6.1 The status of the complainant judged to be unreasonably persistent or vexatious will be reviewed by the Council after six months and at the end of every subsequent six months within the period during which the policy is to apply (see paragraph 5.4 (c)).

6.2 The complainant will be informed of the result of this review if the decision to apply this policy to him or her has been reversed earlier than expected.

7 Features of an unreasonably persistent and/or vexatious complainant (paragraph 4.2 of the policy refers to this section)

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet one of the following criteria:

Where complainants:

7. 1. Persist in pursuing a complaint where the Council's complaints process has been fully and properly implemented and exhausted.
7. 2. Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed (care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints.)

7. 3. Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.

7. 4. Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate.

7. 5. Regularly 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 judgement will be used in applying this criteria.

7. 6. Have threatened or used physical violence towards the Clerk or Councillors at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. The Council has determined that any complainant who threatens or uses actual physical violence towards the Clerk or Councillors will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made.

7. 7. Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on the Clerk. A contact may be in person, by telephone, letter, email, fax or social media. Judgement will be used to determine excessive contact taking into account the specific circumstances of each individual case.

7. 8. Have harassed or been verbally abusive on more than one occasion towards the Clerk or Councillors dealing with the complaint. The Council recognises that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this.

7. 9. Are known to have recorded face-to-face or telephone conversations without the prior knowledge and consent of other parties involved.

7. 10. Make unreasonable demands on the Council and its Clerk 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 Council's complaints procedure or normal recognised practice.

7. 11. Make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:

a) clearly does not have any serious purpose or value; and/or

b) is designed to cause disruption or annoyance; and/or

c) has the effect of harassing the public authority; and/or

d) can otherwise fairly be characterised as obsessive or manifestly unreasonable.

7. 12. Make repetitive complaints and allegations which ignore the replies which the Council has supplied in previous correspondence.

7. 13. Refuse to cooperate with the complaints investigation process while still wishing their complaint to be resolved.

7. 14. Insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint, despite offers of assistance with this from the Council).

7. 15. Deny statements he or she made at an earlier stage in the complaint process.

7. 16. Adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Council, but at the same time with a Member of Parliament, other Councils, elected Councillors of this and other Councils, the Council's independent auditor, the Standards Board, the police, etc.

7. 17. Persistently approach the Council through different routes about the same issue.

8 Options to restrict a complainant's contact with the Council, and other actions (paragraph 5.3 of the policy refers to this section)

8.1 A letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.

8.2 Notify the complainant, in writing, that the Council 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 will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.

8.3 Decline contact with the complainant, either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact is maintained. The complainant will be notified of this contact person.

8.4 Inform the complainant that in extreme circumstances the Council will seek legal advice on habitual or vexatious complaints.

8.5 Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual or vexatious, while seeking advice or guidance from its solicitor or other relevant agencies, such as the Norfolk Association of Local Councils or External Auditor.

8.6 These options are not exhaustive and often local or other factors will be relevant in deciding what might be appropriate action. For instance, any arrangements for limiting a complainant's contact must take account of the complainant's individual circumstances, bearing in mind such issues as age, disability, gender, race and religion or belief.