ABUSIVE, PERSISTENT OR VEXATIOUS COMPLAINTS POLICY

1. Introduction

This policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be habitual or vexatiously responding to these situations.

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’.

This policy intends to assist in identifying and managing persons who seek to be disruptive to the Village Council, elected Members and members of staff through pursuing an unreasonable course of conduct. In cases of abusive, persistent or vexatious complaints against a member of staff, this policy will work in conjunction with the Village council’s Dignity at work Policy.

The term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.

Habitual or vexatious complainants can be a problem for Council staff and members.

The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer and Member time. While the Council 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.

Raising of legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.

The aim of this policy is to contribute to the overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

2. Habitual or Vexatious Complainants

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

The repeated and/or obsessive pursuit of:-

- *unreasonable complaints and/or unrealistic outcomes*
- *reasonable complaints in an unreasonable manner*

Prior to considering its implementation the Council will send a *summary* of this policy to the complainant to give them prior notification of its possible implementation.

Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the Personnel Committee (or appointed sub-committee) will seek agreement to treat the complainant as a habitual or vexatious complainant for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious complaints.

The Clerk, as responsible officer, will notify, on behalf of the Village Council, complainants in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. North East Lincolnshire Council will also be informed that a constituent has been designated as a habitual or vexatious complainant.

The status of the complainant will be kept under review. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed.

3. Definitions

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

Examples include the way in which, or frequency with which, complainants raise their complaint with staff or how complainants respond when informed of the Village Council's decision about the complaint.

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

- 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 seek to have them dismissed or replaced make an unreasonable number of contacts with the Village 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, faxes, telephone calls, e-mails or other social media communications)
- Harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and racist language
- Raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- Introduce trivial or irrelevant new information whilst the complaint is being investigated and expects 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
- Electronically record meetings and conversations without the prior knowledge and consent of the other person(s) involved
- Adopts an excessively ‘scattergun’ approach, for instance, pursuing a complaint or complaints not only with the Village Council, but at the same time with, for example, a Member of Parliament, other Councils, elected Members of this and other Councils, the Village Council’s Independent Auditor, the Monitoring Officer, the Police or solicitors.
- 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 Village Council through different routes about the same issue

- Persist in seeking an outcome which Village 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

Great Coates Village Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.

In the first instance the Clerk will consult with the Personnel Committee (or appointed sub-committee) prior to issuing a warning to the complainant. The Village Clerk will contact the complainant in writing, or by email, to explain why this 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.

If the disruptive behaviour continues, the Clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the Village Council in future will be restricted. The Clerk will make this decision in consultation with the Personnel Committee and inform the complainant in writing of what procedures have been put in place and for what period.

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 that the restriction will be in place for. In most cases restrictions will apply for between 3 to 6 months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

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 and / or all Council Officers and insisting they only correspond by letter

- Requiring contact to take place with one named member of staff only

- 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 Great Coates Village Council will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff will be identified who will read future correspondence)

When the decision has been taken to apply this policy to a complainant, the Village Clerk will contact the complainant in writing to explain:-

- Why the decision has been taken
- What action is being taken
- The duration of that action

The Clerk will enclose a copy of this policy in the letter to the complainant.

Where a complainant continues to behave in a way that is unacceptable, the Clerk, in consultation with the Personnel Committee (or appointed sub-committee) may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

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.

5. **New Complaints** (from complainants who are treated as abusive, vexatious or persistent)

New complaints from people who have come under this policy will be treated on their merits. The Clerk and the Personnel Committee (or appointed sub-committee) will decide whether 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 are founded.

The fact that a complainant is judged to be unreasonably persistent of vexatious and any restrictions imposed on Council's contact with him or her, will be recorded and notified to those who need to know within the Council.

6. **Review**

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Clerk, and the Personnel Committee (or appointed sub-committee) after three months, and at the end of every subsequent three months within the period during which the policy is to apply.

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**

The Clerk will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:-

- The name and address of each member of the public who is treated as abusive, vexatious or persistent
- When the restriction came into force and ends
- What the restrictions are
- When the person and Council were advised

The Village Council will be provided with an annual report giving information about members of the public who have been treated as vexatious/persistent as per this policy.

Any appointed sub-committee (the Complaints Committee) will consist of the Vice Chair and three other Councillors