

WARBOYS PARISH COUNCIL

UNREASONABLE, VEXATIOUS AND PERSISTENT COMPLAINANT POLICY

1. Introduction

- 1.1 Complaints about Warboys Parish Council will be processed in accordance with an adopted policy. During this process, the Council inevitably will come into contact with a small number of complainants who take up an unwarranted amount of Council resources or impede the investigation of their complaint. The aim of this policy is to identify situations where the complainant could be considered unreasonable, vexatious or persistent to detail how to respond to such situations.
- 1.2 Careful judgement and discretion must be used in applying the criteria to identify potentially unreasonable, vexatious and persistent complainants and in deciding what action to take in specific cases.
- 1.3 It must be recognised that complainants may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.
- 1.4 For the avoidance of doubt, this policy will also apply to requests for information under the Freedom of Information Act, Data Protection Act and Environmental Information Regulations.

2. Definition of Unreasonable, Vexatious and Persistent Complainants

- 2.1 Unreasonable, vexatious and persistent complainants are 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. It is important to differentiate between 'persistent' complainants and 'unreasonably persistent' complainants. Arguably, many of the people who submit complaints are 'persistent' on the entirely reasonable basis that they feel the authority has not dealt with their complaint properly and are not prepared to leave the matter there. Unreasonable and unreasonably persistent complainants may have justified complaints or grievances but are pursuing them in inappropriate ways, or they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. Their contacts with the Council may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved. Sometimes the situation between the Council and a complainant can escalate and the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening, although such complainants are in a very small minority. This guidance covers behaviour which is unreasonable, which may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually an accumulation of incidents or behaviour over a longer period.
- 2.2 Complainants may be deemed to be vexatious as a result of their unreasonable behaviour where current or previous contact with them shows that they have met one or more of the following criteria:
 - 2.2.1 Persisting in pursuing a complaint where the Council's Complaints Procedure has been fully and properly implemented and exhausted.

- 2.2.2 The substance of a complaint is changed or new issues are raised persistently or complainants seek to prolong contact by unreasonably raising further concerns although care must be taken not to disregard new issues, which differ significantly from the original complaint.
- 2.2.3 Complainants are unwilling to accept documented evidence of facts or deny receipt of an adequate response despite correspondence specifically answering their questions/concerns. This could also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- 2.2.4 Complainants refuse to specify or do not clearly identify the precise issues or grounds they wish to be investigated despite reasonable efforts to help them to do so by staff.
- 2.2.5 Complainants focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgement must be used in applying the criterion.
- 2.2.6 Complainants have, in the course of pursuing a registered complaint, had an excessive number of contacts (or unreasonably made multiple complaints) with the Council placing unreasonable demands on Council employees. Such contacts may be in person, by telephone, letter or electronically. Discretion must be exercised in deciding how many contacts are required to qualify as excessive, using judgement based on the specific circumstances of each individual case.
- 2.2.7 Complainants have harassed or been abusive or verbally aggressive or threatening or bullying on one or more occasions towards councillors or staff dealing with their complaint – directly or indirectly – or their families and/or associates. All incidents of harassment or aggression must be documented, dated and reported to the Clerk.
- 2.2.8 Complainants are known to have electronically recorded meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the outset of any investigation into their complaint(s) that such behaviour is unacceptable and can, in some circumstances, be illegal.
- 2.2.9 Complainants making unnecessarily excessive demands on the time and resources of the Council or its staff whilst a complaint is being looked into, by for example excessive telephoning or sending numerous emails, writing lengthy complex letters every few days and expecting immediate responses.
- 2.2.10 Complainants refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- 2.2.11 Complainants refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- 2.2.12 Complainants insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- 2.2.13 Complainants making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.

- 2.2.14 Complainants introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- 2.2.15 Complainants adopting a 'scattergun' approach in pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/the authority's independent auditor/local police/solicitors.
- 2.2.16 Combinations of some or all of these.
- 2.3 Complaints may be deemed to be vexatious in any situation where physical violence has been used or threatened towards councillors or staff or their families/associates at any time. This will cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented and reported to the Council, also reporting where appropriate, to the police.
- 2.4 Raising 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 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 unreasonably persistent. If complaints procedures are operating properly, then responding to expressions of dissatisfaction and requests for information should not cause the Council a particular problem.

3. Dealing with Unreasonable, Vexatious and Persistent Complainants

- 3.1 Once a complaint has been received, which the Clerk considers could be unreasonable, vexatious or persistent behaviour, this will be reported to the Council for consideration.
- 3.2 The Council will have the responsibility for identifying complainants as unreasonable, vexatious or persistent in accordance with the above criteria. The Council will decide what action to take and will implement such action and notify complainants promptly in writing of the reasons why they have been classified as unreasonable, vexatious or persistent as a result of their behaviour or persistent behaviour and the action to be taken.
- 3.3 A record will be kept, for future reference, of the reasons why a complainant has been classified as unreasonable, vexatious or persistent and the action taken.
- 3.4 The Council may decide to deal with unreasonable, vexatious or persistent complainants in one or more of the following ways:
 - 3.4.1 Once it is clear that a complainant meets any one of the criteria in section 2 (above), it may be appropriate to inform them in writing that they are at risk of being classified as unreasonable, vexatious or persistent. A copy of this policy will be sent to them and they should be advised to take account of the criteria in any future dealings with the Council. In some cases it may be appropriate at this point to copy this notification to others involved in the complaint and suggest that complainants seek advice in taking their complaint further.

- 3.4.2 Try to resolve matters by drawing up a signed agreement with the complainant setting out a code of behaviour for the parties involved if the Council is to continue dealing with the complaint. If this agreement were breached, consideration would then be given to implementing other actions as outlined below.
- 3.4.3 Decline further contact with the complainant either in person, by telephone, letter or electronically – or any combination of these – provided that one form of contact is maintained. Alternatively, further contact could be restricted to liaison through a third party.
- 3.4.4 Notify complainants 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. Complainants should be notified that correspondence is at an end and that further communications will be acknowledged but not answered.
- 3.4.5 Inform complainants that if appropriate, the Council reserves the right to refer the behaviour of unreasonable, vexatious or persistent complaints to the police.
- 3.4.6 In exceptional circumstances, consideration will be given to the possibility of obtaining a High Court injunction to prevent the complainant harassing, threatening or distressing named or individual councillors or council employees.

4. Vexatious Status

- 4.1 If the complainant fails to comply with any arrangement in clause 3 and/or persists in their unreasonable, vexatious or persistent behaviour as set out in clause 2 the complainant shall be considered to be unreasonable, vexatious or persistent and notified in writing by the Council.

5. Withdrawing Vexatious Status

- 5.1 Once complainants have been classified as unreasonable, vexatious or persistent such status will continue to apply for a period of six months, at the end of which period it will be reviewed by the Council. It will either be re-imposed for a further period of six months, and all relevant parties informed or it will be withdrawn. However this status can also be withdrawn at any time if, for example, complainants subsequently demonstrate a more reasonable approach. If they submit a further complaint, relating to a new matter(s) the normal complaints procedures would apply.
- 5.2 Where unreasonable, vexatious or persistent status is withdrawn, normal contact with complainants and application of the complaints procedures will be resumed.

6. Review Process

- 6.1 If the unreasonable, vexatious or persistent complainant is unhappy about the decision to place their name on the vexatious complainants list they may write to the Council to review the decision setting out any reasons why in writing within 14 working days of their having been notified of the decision in writing.
- 6.2 The existence and operation of this procedure will be reviewed, shared with and explained to all relevant staff.