Copdock and Washbrook Parish Council

Vexatious Policy

Policy for dealing with abusive, persistent or vexatious complaints and complainants

This policy has been drafted taking into account the Local Government Ombudsman advice: Guidance note on management of unreasonable complainant behaviour.

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Introduction

As with any organisation, there will be times when Copdock and Washbrook Parish Council receives complaints from members of the public, also calls on staff time from people who may raise issues more often than others. Some complaints are received by telephone or in writing, and some by electronic means, i.e. emails. To set out the procedure for dealing with complaints, the Parish Council has a Complaints Policy.

In the event that a complainant or a visitor / correspondent begins to make an unreasonable level of contact with the Parish Council and has the potential to impact on / hinder the normal day to day running of the Parish Council, the Parish Clerk, on the instruction of the Chair (or in the absence of the Chair, the Vice-), will implement a policy for dealing with frequent or vexatious complainants / correspondents.

Habitual or vexatious complainants can be a problem for council staff and councillors. The difficulty in handling such complainants is that they are time consuming and can be wasteful of resources in terms of Officer and Member time. While the Council endeavours to respond with patience and empathy to the needs of all complainants there are times when there is a need to be realistic about the extent to which the matter can reasonably be resolved, to assist or to rectify a real or perceived problem.

Habitual or Vexatious Complainants

Definitions

For the purposes of this policy, terms used are clarified below:

Complainant – a person raising a complaint

Correspondent – a person contacting the Parish Council to notify of matters, ask questions or request information (in writing, email, by phone or in person)

Habitual – 'done repeatedly or as a habit'

Unreasonable - it is the element of unreasonableness that means that complaints or complainants may be treated in accordance with this policy

Vexatious – a term 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'.

For us, unreasonable and unreasonably 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 complaints or of the Council's day to day business.

A complaint in itself may be reasonable or unreasonable.

Similarly, the persistent nature of a complainant may be reasonable or unreasonable. In some situations a complainant needs to be persistent to achieve the right outcome. This is why some complaints get referred to the Local Government Ombudsman and are upheld. In other situations, the level of persistent behaviour becomes unreasonable. It is appreciated therefore that there needs to be a balance when applying this policy.

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. Such complainants are in a very small minority, but their behaviour may result in the Council having to restrict access to the Council.

This policy covers behaviour which is unreasonable, which may include one or two isolated incidents, as well as unreasonably persistent behaviour, such as an accumulation of incidents or behaviour over a longer period.

Examples - An unreasonably persistent and/or vexatious complainant or correspondent may:

Examples of unreasonable behaviour include the way in which, or frequency with which, complainants raise their complaint with staff, or how complainants respond when informed of the Council's decision about the complaint. Examples of behaviour covered by this policy include those set out below (this list is not exhaustive).

1. Persisting in pursuing a complaint where the Council's Complaints Procedure has been fully and properly implemented and exhausted
2. Continuing to complain but refusing to follow the Council's Complaints Procedure
3. Change the substance of a complaint or raise new issues persistently / unreasonably raising further concerns (although care must be taken not to disregard new material issues)
4. Be unwilling to accept documented evidence of facts or deny receipt of an adequate response despite correspondence specifically answering their questions / concerns.
5. Refuse to specify the precise issues they wish to raise, despite reasonable efforts to help them to do so by staff

6. Focus on a trivial matter to an extent out of proportion with the level of complaint they wish to pursue
7. Have an unreasonably excessive number of contacts with the Council placing unreasonable demands on Council employees. Such contacts may be in person, by telephone, letter or email.
8. Act in such a way that could be harassment; abusive; verbally aggressive; threatening or bullying towards staff dealing with their complaint (directly or indirectly). All incidents of harassment or aggression must be documented, dated and reported to the Parish Clerk.
9. Make unnecessarily excessive demands on the time and resources of the Council or its staff, which can also include an expectation to receive attention / information immediately.
10. Refuse to co-operate with the complaints process while still wishing their complaint to be resolved.
11. Refuse to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
12. Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
13. Insisting on responses to trivial or large numbers of detailed questions and requiring a full answer to all.
14. Electronically record meetings and conversations without the prior knowledge and consent of the other person(s) involved
15. Adopting a 'scattergun' approach: pursuing a complaint with the Council and, at the same time, with an MP / councillor / auditor / local police / solicitors, etc

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 should not automatically mean that they are classed as unreasonably persistent.

Dealing with unreasonable complainants

When complainants have been identified as potentially fulfilling the criteria set out later in this document, the Clerk will convene a panel of three Members consisting of: the Chair, the Vice-chair, and one other councillor, to seek agreement to treat the complainant as a habitual or vexatious complainant and for the appropriate course of action to be taken.

The Clerk on behalf of the Council will notify the complainant, in writing, of the reasons why their behaviour has been treated as habitual or vexatious and the action that will be taken unless the behaviour is changed.

If the disruptive behaviour continues, the Parish Clerk will issue a reminder letter (or other means of notification if absolutely necessary) to the complainant, advising them that the way in which they will be allowed to contact the Parish Council in future will be restricted. This decision will be taken by the three Members drawn from those listed at the start of this section, in consultation with the Parish Clerk.

Any restriction 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 the restriction will be in place. In most cases restrictions will apply for 6 months at which time they will be reviewed. (Restrictions may be lifted sooner if the complainant's behaviour merits this.)

Where a complainant continues to behave in a way that is unacceptable, the panel of three Members set out above, in consultation with the Clerk, may decide to refuse all contact with the complainant and stop any investigation into their complaint.

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

Examples of restrictions

Restrictions will be tailored to the individual circumstance and may include:

a. Banning the complainant from making contact either in person, by telephone except through a third party (eg solicitor, councillor or friend acting on their behalf)
b. Banning the complainant from sending emails to individuals and/or all Council Officers and insisting they only correspond by postal letter
c. Requiring contact to take place with one named member of staff only
d. Restricting telephone calls or personal visits to the Council to specified days and/or times and/or duration
e. Requiring any personal contact to take place in the presence of an appropriate witness
f. Letting the complainant know that the Parish Council will not reply to or acknowledge any further contact from them on the specific topic of that complaint.

Imposing Restrictions

If physical violence is used or threatened, or where the nature of the approaches to staff means that contact with the complainant gives cause for distress, then the complainant will only be communicated with through written means. All such incidents should be documented and reported to the Council, also to the police where appropriate.

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

New complaints from people subject to this policy will be treated on their merits.

Review

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Parish Clerk and three of the Members listed earlier in this document, after six months and, if applicable, at the end of any extension period agreed.

The complainant will be informed if the review results in an extension of restrictions to their contact with the Council.