

Laceyby Village Council

Abusive, Persistent or Vexatious Complaints Policy

1. Introduction

This policy identifies situations where a complainant, either individually or as part of a group of complainants, might be considered to be habitual or vexatious and ways of 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 and the Code of Conduct.

The term complaint, within this policy, includes requests made under the Freedom of Information Act 2000, the Data Protection Act 2018, General Data Protection Regulations 2018; and reference to the Complaints Procedure is, where relevant, to be interpreted as a request under these Acts.

Habitual or vexatious complainants can be a problem for Council staff, and elected Members, and may be as a result of actions from the public, staff members or elected Members.

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

Whilst the Council endeavours to respond with patience and sympathy to the needs of complainants, there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

The 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 unreasonable persistent complainant. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it, should not necessarily cause the complainant to be labelled as vexatious or unreasonably persistent.

2. Habitual or Vexatious Complainants

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

The repeated and/or obsessive pursuit of:

- Unreasonable complaints and/or unrealistic outcomes
- Reasonable complaints in an unreasonable manner
- Reasonable / unreasonable complaints made habitually (multiple times)

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 section 3 below, the Village Council (or appointed sub-committee) will seek agreement to treat the complainant as habitual, or vexatious, to allow for the appropriate course of action to be taken.

On behalf of the Village Council, the Clerk as Responsible Officer, will notify the 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, and if they subsequently demonstrate a more reasonable approach, then their status will be reviewed.

3. Definitions

Examples of habitual or vexatious complaints include the way in which, or the frequency with which, complainants raise their complaint with employees and how complainants respond when informed of the decision relating to the complaint.

Features of an unreasonably persistent and/or vexatious complainant include the following; this list is not exhaustive, nor does one single feature imply that the person will be considered as being in this category:

- Have insufficient or nor no grounds for their complaint and make the complaint only to annoy (or for a reason that they do 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 for their complaint to be resolved;
- Refuse to accept that the 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 the issues are not within the power of the Village Council to investigate, change or influence;
- Insist on the complaint being dealt with in ways which are incompatible with the Complaints Procedure or good practice;
- Make what appears to be groundless complaints about staff dealing with complaints, seek to have them dismissed or replaced, and 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, telephone calls, emails 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 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 complaints process;

- Introduce trivial or irrelevant new information whilst the complaint is being investigated and expects this to be taken into account and comment on;
- Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed;
- Deny statements the complainant made at an earlier stage in the complaints process;
- Electronically, or otherwise record meetings and conversations without prior knowledge and consent of other people involved;
- Adopts an excessively “scatter gun” approach, for instance, pursuing a complaint of complaints not only with the Village Council, but at the same time with, for example, a Member of Parliament, other Councils, Councillors, the 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 the minor differences affect the outcome;
- Insist that these ‘new’ complaints should be put through the full Complaints Procedure;
- Persist in seeking an outcome with the Village Council has explained is unrealistic for legal, or policy reasons;
- Refuse to accept documented evidence as factual;
- Complain about or challenge an issue based on a historic and/or an irreversible decision or incident;
- Combine some or all of these features.

All complaints and hearings of the Complaints and / or Appeals Panel will be dealt with in the strictest of confidence and the Council will also take into account the provision of the Data Protection Act, GDPR and Freedom of Information Act when dealing with complaints.

All Complaints Panel hearings will be heard within a closed forum, with the exclusion of press and public.

4. Imposing Restrictions

The Village Council will ensure that the complaint is being, or has been, fully and properly investigated according to the Complaints Procedure.

In the first instance the Clerk will consult with the Full Council prior to issuing a warning to the complainant. The 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 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 Village Council in future will be restricted. The Clerk will make this decision in consultation with the Full Council and advise the complainant of the procedures that have been put in place and for what period.

Any restriction that is imposed on the complainant's contact with the Village Council will be appropriate, proportionate and the complainant will be advised of the period of time that the restriction is 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 will be reviewed on a quarterly basis.

Restrictions will be tailored to deal with 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, or Friend acting on their behalf.
- Banning the complainant from sending emails to individual and/or all Councillors and staff and insist they only correspond in letter form.
- Requiring contact to take place with two named Councillors or members of staff only.
- Restricting telephone calls to specific 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 Village Council will not reply to, or acknowledge, any further contact from them on a specific topic of that complaint (in this case a designated person will be identified to read future correspondence).

When the decision has been taken to apply this policy to a complainant, the 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 Full Council, may decide to refuse all contact with the complainant and stop any investigation into their complaint.

North East Lincolnshire Council will also be informed that a constituent has been designated as habitual or vexatious complainant. The status of the complainant will be kept under review, and should the complainant subsequently demonstrate a more reasonable approach, their status will be reviewed.

Where behaviour is so extreme or it threatens the immediate safety and welfare of the staff and Councillors, other options will be considered e.g. reporting 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, persistent or vexatious)

New complaints from people who have previously been addressed using this policy, will be treated on their own merits. The Clerk and the Full Council 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 the complainant is judged to be unreasonably persistent or vexatious and any restrictions imposed on them will be recorded and those who need to know within the Village Council informed.

6. Review

The status of the complainant judged to be unreasonably persistent or vexatious will be reviewed by the Clerk and the Full Council after 3 months, and at the end of every subsequent 3 months within the period during which this policy applies.

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 public who is treated as abusive, persistent or vexatious.
- When the restriction came into force and ends.
- What the restrictions are.
- When the person was advised.

Records will be retained in line with Records Retention.

The Village Council will be provided with an annual report giving information about members of public who have been treated as abusive, persistent or vexatious.

Any appointed sub-committee will consist of the Chair or Vice Chair and at least 2 other Councillors.