



SHIPDHAM PARISH COUNCIL



Policy for Dealing with Unreasonably Persistent Complaints, Unacceptable Parishioner Behaviour, and Vexatious Requests

1. Introduction

This policy sets out our approach to the relatively few parishioners whose actions or behaviour that the Council considers to be unacceptable. The Council aims to deal fairly, honestly, consistently and appropriately with all complainants and requests for information, but we retain the right to restrict or change access to our councillors, clerk and services where we consider a parishioner's actions to be unacceptable. Our aim in doing this is to ensure that other parishioners and our staff do not suffer any disadvantage from parishioners who act in an unacceptable manner.

This policy is consistent with anyone's rights under the Data Protection Act 2018 and the Freedom of Information Act 2000, and replaces the previous Access To Council Services Vexatious Correspondence Policy 2022.

2. Purpose

The purpose of the document is to:

- define unreasonable parishioner behaviour;
- explain what the Council considers to be unreasonable parishioner behaviour and how we will deal with it;
- define vexatious requests; and
- explain what the Council consider to be a vexatious request and how we will deal with these.

This policy helps staff to understand clearly what options for action are available, and who can authorise these actions. It also assists staff to manage the expectations and behaviour of complainants while their complaint is addressed and when the Council can refuse a request for information.

The objectives of the policy are to:

- ensure all staff understand the objectives and requirements of this Policy;
- promote problem solving and avoid apportioning blame. The emphasis should be on finding a solution;
- satisfy those who complain or comment that they have been dealt with promptly, fairly, openly and honestly;
- resolve complaints quickly and as close to the point of service delivery as acceptable and appropriate;
- protect staff from abusive, unacceptable, unreasonable, aggressive or violent

behaviour from parishioners and undue stress caused by their behaviour and correspondence; and

- ensure staff and parishioners understand how the Council can deal with vexatious complaints and requests for information.

The Council welcomes feedback from parishioners and will always try to resolve any complaint or request for information as quickly as possible and therefore this policy should only be applied where absolutely necessary.

With each complaint the Council must consider whether it is persistent, unreasonably persistent, or a new complaint. With each request for information we must consider whether it is manifestly unjustified, inappropriate or improper use of formal procedure.

This policy covers behaviour associated with parishioner complaints, complaints about the standards of our elected members, requests for information, and general parishioner contact.

The Council needs to differentiate between those parishioners whose concerns relate to a series of service failures and those parishioners whose behaviour is unreasonable.

Parishioners can be frustrated and aggrieved and it is therefore important to consider the substance of the complaint. However, sometimes parishioners pursuing complaints or other issues treat staff in a way that is unacceptable.

Whilst some complaints may relate to serious and distressing incidents, the Council does not tolerate abusive, offensive or threatening behaviour and will take steps to protect staff who are subject to unreasonable behaviour.

Section 1 – Unreasonably Persistent Complaints and Unacceptable Parishioner Behaviour

3. Definition of Unreasonable Behaviour

Parishioners may act out of character when under stress and the Council does not view behaviour as unacceptable just because a parishioner is forceful or determined. However, the actions of parishioners who are angry, demanding or persistent may result in unreasonable demands on workloads and behaviour towards staff.

Unreasonable behaviour 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.

The Council differentiates between 'persistent' parishioners and 'unreasonably persistent' parishioners.

Parishioners making a complaint can be 'persistent' where they feel that the Council has not dealt with their complaint properly and are not prepared to leave the matter there. For example, it is not unreasonable for a parishioner to criticise how their complaint is being handled when our published procedures are not followed.

However, some parishioners may have justified complaints or requests but may pursue

them in inappropriate ways such as lengthy phone calls, emails expecting immediate responses, detailed letters or emails every few days. Others may pursue complaints or requests which have no substance or which have already been considered and dealt with. Their contacts with us may be amicable but still place very heavy demands on staff.

These are some of the actions and behaviours of unreasonably persistent parishioners which the Council often finds problematic. It is by no means an exhaustive list, but they are examples that frequently come to our attention:

- refusing to specify or clarify the grounds of a complaint, despite clarification being requested and assistance offered to achieve it;
- refusing to co-operate with the complaints investigation process;
- refusing to accept that certain issues are not within the scope of a complaints process;
- insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or within good practice;
- making unjustified complaints about the staff dealing with the complaints, and seeking to have them replaced;
- changing the basis of the complaint as the investigation proceeds and/or denying statements they have made at an earlier stage;
- introducing new information, at a late stage, which the parishioner 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;
- covertly recording meetings and conversations;
- submitting falsified documents from themselves or others;
- bringing complaints designed to cause disruption or annoyance or lacking any serious purpose or value;
- adopting a 'scattergun' approach: pursuing parallel complaints on the same issue;
- making excessive demands on the time and resources of staff and members with lengthy and/or repeated telephone calls, emails to numerous Council officers, or detailed letters every few days and expecting immediate responses;
- causing distress to staff – including use of hostile, abusive or offensive language or an unreasonable fixation on an individual member of staff;
- submitting repeat complaints, with minor additions/variations, and insisting that these make 'new' complaints;
- inciting others to make the same or similar complaint to the Council;
- refusing to accept the outcome decision of a complaint – repeatedly arguing the point and complaining about the decision, with no new evidence;
- insisting on pursuing unjustified complaints and/or unrealistic outcomes to legitimate complaints. Taking actions that are out of proportion to the nature of the complaint, even when the complaints procedure has been exhausted;
- behaviour which has a significant and disproportionate adverse effect on the Council's resources and other parishioners;
- inappropriate behaviour towards Council staff investigating or involved in the complaint such as inappropriate use of language, aggression or violence;

- persistently approaching the Council through different routes about the same issue; or
- persistently complaining about elected members without grounds for complaint.

Care must be taken not to discard new issues which are significantly different from the original issues, however these should be treated as a separate complaint issue.

4. Designating Behaviour as Unreasonable

It is vital that all attempts are made to maintain effective communication and relationships with parishioners. Prior to taking action under this policy, the Chairman should ensure that:

- every reasonable effort has been made to investigate the complaint;
- every reasonable effort has been made to communicate with the parishioner; and
- the parishioner is not now providing any significant new information that might affect the Council's view of the complaint.

a) Prior warning

When the Council considers that the parishioner is unreasonably persistent in pursuing complaints or otherwise is acting unreasonably a risk assessment will be completed in line with health and safety policies and, if it is concluded that the behaviour is unacceptable or unreasonable, the Clerk will write to tell the parishioner why they find the parishioner's behaviour unreasonable and/or unacceptable and ask them to change the behaviour.

b) Decision to restrict or terminate contact with the Council

If unreasonable behaviour continues, two Councillors will review the case and present their findings to the Council for the passing of a resolution.

When making decisions on how to manage the unreasonably persistent parishioner or unreasonable behaviour of a complainant, all relevant factors should be taken into account to ensure that action taken is appropriate and proportionate to the nature and frequency of the parishioner's contacts with the authority at that time.

Due consideration should be given to the parishioner's health, including any related illnesses or disabilities that may be impacting on behaviour (for example, dementia, learning disability, mental illnesses etc).

If the parishioner has not responded appropriately to the prior warning letter a decision may be made to restrict contact with the Council. The parishioner will be notified in writing (or alternative formats appropriate to the individual) why it is believed their behaviour falls into the category of unreasonably persistent and/or unreasonable behaviour.

The parishioner will be notified what action will be taken and the duration of that action, as well as what the parishioner can do to have the decision reviewed.

The following is a list of possible options for managing a parishioner's involvement with the Council from which one or more might be chosen and applied, if warranted. Any action taken should be appropriate and proportionate. It is not an exhaustive list and often the

specific circumstances of the individual case will be relevant in deciding what might be appropriate action:

- placing limits on the number and duration of contacts with staff per week or month;
- offering a restricted timeslot for necessary calls;
- limiting the parishioner to one medium of contact only (telephone, letter, email etc);
- requiring the parishioner to communicate only with one or two named members of staff;
- requiring any personal contact to take place in the presence of a witness and in a suitable location;
- refuse to register further complaints about the same matter;
- refuse to recognise the parishioner at Council meetings and restrict them from speaking during parishioner's questions;
- where a parishioner's behaviour is unreasonable and threatens the safety and/or welfare of staff, the Council may decide to terminate all forms of contact with the parishioner; and/or
- other action may be taken, for example reporting the matter to the police or taking legal action. Where such action is necessary the Council may not give prior warning.

Where a decision on the complaint has been made, the parishioner can be informed that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. A designated staff who will read future correspondence should be identified, this may be Clerk or Councillor.

Where following restriction of access being implemented a parishioner continues to behave in a way that is unacceptable or where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, the Council may:

- terminate contact;
- temporarily or permanently restrict/not allow access to the premises used by the Council for public meetings;
- report the matter to the police; or
- take legal action.

c) Reviewing the decision to restrict contact

When imposing a restriction on access there will be a specified review date, usually 6 months from the initial decision. The review will be carried out by at least two Councillors and the result recorded by the Clerk. Restrictions should be lifted and the relationship returned to normal unless there are good grounds to extend the restrictions.

The parishioner will be informed of the outcome of the review. If the restrictions are to continue, the parishioner should be given the reasons and told when the restrictions will next be reviewed.

d) Referral to the Local Government Ombudsman

Relationships between organisations and parishioners sometimes break down badly when complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there may be nothing to gain from following through all stages of the Council's Complaints procedure. In these circumstances, the Ombudsman may, exceptionally, be prepared to consider complaints before complaints procedures have been exhausted – if the request is made by both sides to the dispute.

A parishioner who has been treated as behaving unreasonably may make a complaint to the Ombudsman about it. The Ombudsman is unlikely to be critical of the Council's action if it can show that it acted proportionately, reasonably and in accordance with its adopted policy.

e) Appeals against decisions

Parishioners must be informed in writing when the Council wishes to apply this policy and given information on how to appeal the decision.

The appeal will be heard by as many of the Council are available at the time of the appeal. Due to the size of the Council, it is highly unlikely that there would be any one Councillor who has not been involved with the case.

The Clerk will write to the parishioner with the Council's decision, which will be final.

A parishioner who is dealt with under this policy will be informed of their right to contact the Local Government Ombudsman if they feel the Council has not acted correctly in the administration of the complaint.

f) New complaints

New complaints from parishioners who have been subject to this policy will be dealt with on their merits. It is recognised that any new complaint may represent a genuine service failure and therefore needs to be reviewed objectively regardless of who is bringing the complaints.

Once the complaint has been considered, a risk assessment will also be carried out based on past and current knowledge of the parishioner's behaviour and the likelihood of re-occurrence of any unacceptable behaviour.

Any decision not to acknowledge, investigate and respond to a new complaint must be clearly recorded.

g) Recording actions and contacts with the parishioner

Any decision to apply this policy must be recorded by the Clerk.

The Clerk will keep adequate records to show:

- when a decision is taken not to apply the policy when a member of staff asks for this to be done. The member of staff will be informed of the decision;
- when a decision is taken to make an exception to the policy;
- when a decision is taken not to put a further complaint from such a parishioner through the complaint procedure for any reason;

- when a decision is taken not to respond to further correspondence, the Clerk will make sure that any further letters, faxes or emails from the parishioner are checked to ensure that any significant new information is picked up and addressed; and
- any future contacts with the parishioner must be recorded.

5. Confidentiality

Complaints made to the Council will be treated in confidence.

The Clerk will arrange that the details of unreasonably persistent complainants and/or unreasonable parishioner behaviour is only passed to Councillors and partner organisations who need to know in order to implement the policy or to protect staff safety. The parishioner's details will also be recorded on the Cautionary Contact List.

Confidentiality cannot, however, be guaranteed where a vulnerable person is considered to be at risk and safeguarding procedures apply. In these circumstances, the Council may have to share the information with other external agencies.

Parishioners who make their complaints public in the media may forfeit their right to anonymity and the right to confidentiality.

Section 2 – Vexatious Requests

This section is supplemental to our Freedom of Information Act Requests and Environmental Information Regulation Requests Policy.

6. Definition of Vexatious Behaviour

A vexatious request is: 'a request that is likely to cause distress, disruption, and irritation without any proper or justified cause'.

A vexatious request may include one or two individual requests for information, or may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute or it is the latest in a lengthy series of overlapping requests.

Examples of vexatious requests are:

- abusive or aggressive language used by the requester;
- excessive burden is placed on us in dealing with the request;
- targeted correspondence towards one individual against whom they have some personally enmity;
- unreasonable persistent requests relating to matters which have already been dealt with;
- the request makes completely unsubstantiated accusations against the authority or specific individuals;
- the requester takes an unreasonably entrenched position, rejecting attempts to assist and advice out of hand and shows no willingness to engage with us;
- the requester makes frequent or overlapping requests;
- the requesters intention and purpose is to deliberately cause annoyance;

- the requester has adopted a “scattergun” approach;
- the request relates to a trivial matter and it is not proportionate to deal with the request;
- the requester is abusing their rights of access to information by abusing the legislation to vent anger or harass and annoy us;
- the requester incites others to make the same or similar requests of the Council;
- the information requested affects the individual and has already been resolved by us or by independent investigation; and/or
- the request is made for the sole purpose of the amusement of the requester.

a) Designation of vexatious and decision to refuse to provide requested information

In some cases, it will be obvious to the Council that a request is vexatious, for instance the tone or content of the request is so objectionable that it would be unreasonable to expect the Council to tolerate it. In these circumstances we will consider making a decision that we will refuse the request under Section 14(1) Freedom of Information Act 2000.

In other cases, it will not be so obvious then the Council will take into account if the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. To assess this, we will objectively judge the evidence of the impact on us and weigh this against any evidence about the purpose and value of the request.

However, the Council will not automatically refuse a request simply because it is made in the context of a dispute or if it forms part of a series of requests. We will consider each request for information on its own merits and we will not automatically refuse a request because the individual may have caused problems in the past. We will ensure that we consider whether the request (and not the requester) is vexatious.

The Council will consider whether or not a more conciliatory approach will help before issuing a refusal notice.

Where the request is considered to be vexatious, the Council may make the decision not to provide the information. We will issue you with a refusal notice.

The decision to classify a request as vexatious and to refuse the request will be taken by the two Councillors in consultation with the Clerk.

A refusal notice setting out why the Council is refusing the request will be issued by the Clerk, unless we have already given the requester a refusal notice for a previous vexatious request, and it would be unreasonable to issue another one.

b) Application for Review

A Requester may request a review of the decision to classify a request as vexatious and to issue a refusal notice. Such review will be carried out by two Councillors and the result recorded and communicated to the Requester.

A requester who has been dealt with under this policy will be informed of their right to contact the Information Commissioner if they feel the Council has not acted correctly in dealing with their request.

