

GREAT WALTHAM PARISH COUNCIL

Code of Practice for Handling Vexatious Complaints

Version 3

This policy document should be reviewed and, as necessary, updated annually as a minimum

Version	Review Date	Reviewed By	Summary of Changes
1			Original document.
2	December 2021	S. Gilbert	Format change.
3	February 2022	Alex McDevitt	No Change

Introduction

1. This Code of Practice identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual or vexatious.
2. The aim of this Code of Practice, in conjunction with the Code of Practice for Handling Complaints, is to contribute to the overall aim of dealing with all complainants in ways which are demonstrably consistent, transparent, fair and reasonable.
3. Habitual or vexatious complainants can be a problem for Council staff and Councillors. The difficulty in handling repeated and/or vexatious complaints is that they are time consuming and wasteful of resources in terms of the Clerk and Councillor's time. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants, there are times when there is nothing further that can be done to reasonably assist or to rectify a real or perceived problem.
4. If someone raises legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, this should not, by itself, lead to the individual being regarded as a vexatious or 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 regarded as vexatious or unreasonably persistent.

Characteristics of a Vexatious Complainant

The following terms are used in this Code of Practice:

1. 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'.
2. For the purpose of this Code of Practice, habitual or vexatious complainants will repeatedly and/or obsessively pursue any one or several of:
 - unreasonable complaints and/or
 - reasonable complaints in an unreasonable manner and/or
 - unrealistic outcomes.

The following paragraph is a more detailed list of characteristics that may indicate habitual or vexatious complainants.

3. Complainants (and/or anyone acting on their behalf) where contact with them shows that they display one or more of the following characteristics might be considered vexatious if they:
 - a) Persist in pursuing a complaint/grievance where the Council's Complaints Procedure or the Freedom of Information process has been fully implemented & exhausted;
 - b) Persistently change the substance of a complaint/grievance or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response;

- c) Are unwilling to accept evidence given as being factual or deny receipt of an adequate response repeatedly, in spite of correspondence specifically answering their questions;
- d) Do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed;
- e) Repeatedly do not clearly identify the precise issues which they wish to raise, despite reasonable efforts of the Council to address them;
- f) Repeatedly raise and identify concerns which are not within the remit of the Council;
- g) Repeat a complaint that has been considered previously, is essentially the same matter with only very minor differences and does not contain any new information. The most difficult vexatious complaints to deal with are often complaints that are slightly different from the original complaint, but about the same broad area of activity;
- h) Regularly focus on a trivial matter to an extent which is out of proportion to its significance. It is recognised that determining whether a matter is trivial can be subjective and careful judgement must be used in identifying frivolous complaints;
- i) Have threatened or used physical violence towards Council staff or Councillors at any time;
- j) Have had an excessive number of contacts with the Council, placing unreasonable demands on the Clerk and/or Councillors. Discretion will be used in determining the precise number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case;
- k) Have harassed or been personally abusive or verbally aggressive towards the Clerk or Councillors dealing with the complaint/grievance. The Council recognise however, that complainants may sometimes act out of character in times of stress, anxiety or distress and should make reasonable allowances for this. All instances of harassment, abusive or verbally aggressive behaviour will be documented;
- l) Have harassed or been personally abusive or verbally aggressive towards any Council staff or Councillors, whether this has been on a face-to-face contact or at public meetings; DRAFT 3
- m) Are known to have recorded meetings or conversations without the prior knowledge and consent of other parties involved and/or have impersonated any member of staff or Councillors with the objective of soliciting information for whatever purpose;

- n) Seek to coerce, intimidate or threaten Council staff, Councillors or other people involved whether by use of language, tone of voice or behaviour, including body language;

- o) Repeatedly raise grievances which are already proven to be without substance or foundation.

Handling Vexatious Complaints

The Council may deal with vexatious complaints in one or more of the following ways:

1. In a letter, setting out a code of commitment and responsibilities for the parties involved if the Parish Council is to continue processing the complaint/grievance. If these terms are contravened, consideration will then be given to implementing other action as indicated below.
2. Decline contact with the complainant, either in person, by telephone, fax, email or any combination of these, provided that one form of contact is maintained which will usually be by conventional post (letter).
3. Notify the complainant, in writing that the Council has responded to the points raised and has tried to resolve the complaint/grievance but that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end and the Council does not intend to engage in further correspondence dealing with the complaint.
4. Inform the complainant that the Council intends to seek legal advice on unreasonable or vexatious complaints/grievances and behaviour.
5. Temporarily suspend all contact with the complainant in connection with the issues relating to the complaint or grievance being considered.

Restricting Contact

1. The clerk will inform the complainant in writing why a decision has been made to restrict or stop future contact, the contact arrangements and the length of time that these restrictions will be in place.
2. There should never be a blanket ban for an unspecified period of time unless the Council are legally required to do so following a police investigation. The Council should always try to maintain one form of contact which will normally be by way of conventional post (letter). In extreme situations the Council will tell the complainant in writing that they must restrict contact to communication through a nominated advocate known and declared to be acting on their behalf.
3. In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other residents, Council employees, Councillors and co-opted members do not suffer any disadvantage or undue stress and that the resources of the Council are used as effectively as possible.

4. Any restrictions will be appropriate and proportionate to the nature of the complainant's contacts with the Council at that time such as:
 - a) Placing time limits on telephone conversations and personal contacts;
 - b) Limiting the complainant to one form of contact (letter);
 - c) Requiring the complainant to communicate only with one named employee/Councillor;
 - d) If a complaint is currently going through the Council's complaints procedure, asking the complainant to enter into a written agreement about their future conduct if the complaint is to be progressed;
 - e) Closing the investigation into a complaint;
 - f) Refusing to register and process further complaints providing the complainant with acknowledgements only;
 - g) Banning a complainant from the Council's premises;
 - h) Involving the police where the complainant is believed to have committed a criminal offence (harassment, assault or criminal damage), where assault is threatened, or the complainant refuses to leave Council premises.

Threatening and Abusive Complainants and Harassment

1. Council staff or Councillors are not expected to tolerate unacceptable behaviour by complainants which causes or may cause undue stress. The Council believes that harassment is totally unacceptable. The Council will work to prevent any form of harassment from happening in the first instance and where it has already occurred, will work to prevent it from happening again.
2. Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may also include actions characterised as offensive, intimidating, malicious, insulting or humiliating that attempts to undermine or injure an individual or group of individuals.
3. Where there is abusive or aggressive behaviour which produces damaging or hurtful effects, physically or emotionally on the staff or Councillors which includes, but not exclusively, verbal abuse (including name calling), bullying, shouting or swearing or threat of any of these behaviours, the staff or Councillors affected should step away from the situation and the complainant asked to leave the premises where appropriate.
4. This can mean terminating a conversation whether it is face to face or by telephone, advising that the conversation is being terminated, and in the case of such behaviour in a face-to-face contact in the office or public meeting the complainant should be asked to leave the premises.

5. All such incidences must be documented. This will, in itself, cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be continued through written communication by post.

6. Any complainant who threatens or uses physical violence towards staff or Councillors will receive written confirmation that they are being treated as a vexatious complainant and informed of the action that will be taken.