

RYHILL PARISH COUNCIL

HANDLING VEXATIOUS BEHAVIOUR

POLICY AND PROCEDURE

This policy and procedure will be used alongside existing policies and procedures of the Council

Policy formally adopted:

9 May 2023

Review:

May 2024

Developed using the principles set out by Yorkshire Local Councils Association (YLCA) of which RYHILL PARISH COUNCIL is a member

This policy sets out Ryhill Parish Council's ("the Council") stance on vexatious or abusive complaints, demands and/or repeated requests for information including Freedom of Information requests and how they will be dealt with.

The council is committed to dealing with all complaints and other issues or concerns raised by members of the public as fairly, comprehensively and efficiently as possible.

Context

Most individuals will raise legitimate queries, criticisms or complaints in a reasonable and acceptable manner.

Dealing with a complaint will usually be a very straightforward process and will be dealt with equitably, comprehensively and in a timely manner.

However, at times the behaviour of individuals can be unacceptable. This includes behaviour that is abusive, offensive or threatening and may include:

- Using abusive or foul language on the telephone, face-to-face, by letter, text or email
- Any form of intimidating or threatening behaviour
- Sending multiple emails
- Leaving multiple voicemails.

The Council also recognises that the internet has enabled people who share an agenda to link up with one another and to coordinate actions or campaigns. The relative anonymity of online contacts coupled with the widely held appetite to broadcast personal views via social media platforms like Twitter and Facebook has stimulated cyberbullying and other online behaviour designed to harass. This may result in a corresponding increase in vexatious activity and it is with this in mind that The Council seeks to set in place proper processes to deal with such circumstances.

The Council will take action to protect employees and councillors from such behaviour and if an individual behaves in a way that is unreasonably persistent or vexatious the following policy and procedure will be implemented.

Introduction

The Council recognises that dealing with complaints/Freedom of Information (FOI) or similar requests is generally a straightforward matter. Most complainants or people making Freedom of Information requests behave in legitimate ways. A very small minority make complaints/requests that are vexatious, in that they persist unreasonably with their complaints/requests, or make complaints/requests in order to make life difficult for the Council rather than genuinely to resolve a grievance.

In accordance with Local Government Ombudsman guidance the Council defines vexatious behaviour as that which is 'unreasonably persistent' or 'unreasonable'.

Habitual or vexatious complaints can be a problem for Council staff and members. The difficulty in handling such complainants/requesters is that they can become time consuming and wasteful of resources in terms of the Clerk's and members' time. It is important to bear in mind that many parish councils are run by unpaid councillors with the help of a part-time clerk/regional finance officer. In a small number of cases, people pursue complaints/FOI requests in a way which can impede the investigation of their complaint or can have significant resource issues for the Council.

It is not necessary to meet an individual's unreasonable demands, or to answer every single point in an unreasonable letter. Judgement will be required to separate an individual's legitimate queries from those that are unreasonable, often within the same complaint. Skill will be required to respond tactfully and sympathetically. If the individual's persistence adversely affects the Council's ability to do its work and provide a service to others, the Council will need to address such behaviour.

The Council does not expect its staff or Members to tolerate unacceptable behaviour by complainants/requesters or any other individuals.

The purpose of this policy is to support the Council's overall aim of dealing with all complaints, complainants and requests for information in ways that are demonstrably consistent, constructive, fair and reasonable. The policy is intended to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct. It identifies where a complainant/requester, either individually or as a member of a group or a group of complainants/requesters might be considered to be habitual or vexatious and outlines procedures for responding to such situations.

This policy links with the Council's other policies.

Identifying vexatious behaviour or complaints

Raising of legitimate queries or criticisms should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant/requester.

Similarly, the fact that a complainant/requester is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him/her to be labelled vexatious or unreasonably persistent

The Council defines an unreasonable and vexatious complainant/requester as those complainants/requesters who because of the frequency or nature of their contacts with the Council, hinder consideration of their, or other people's, complaints. The terms 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complaint.

Vexatious behaviour can also include complaints, actions or FOI requests that are made with the purpose of disrupting Council business or of undermining the Council or individual members.

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, and to cause annoyance to the defendant'.

Examples include the way in which, or frequency with which, complainants/requesters raise their complaint with the Clerk or how complainants/requesters respond when informed of the Council's decision about the complaint.

The criteria of an unreasonably persistent and/or vexatious complaint, although the list is not exhaustive, is set out in **Appendix 1**.

Handling vexatious behaviour or complaints

Where the Clerk is of the view that complaints, requests or persons could be identified as vexatious (in accordance with the criteria set out in Appendix 1) the Council will make a decision and determine what action to take.

Where the persistent behaviour relates to a complaint, the Council will first ensure that the complaint is being or has been investigated properly according to the adopted complaints procedure.

This will involve checking that:

- the investigation was properly conducted, using an appropriate evidence-base
- any decision reached is the right one based on the evidence available
- communications with the complainant/requester have been appropriate
- the complainant is not now providing any significant new information that might affect the Council's view of the complaint
- Where the persistent behaviour relates to correspondence or requests for information, the Council will consider the following:
 - Can the requests be fairly seen as obsessive?
 - Is the request harassing the Council?
 - Would complying with the request impose a significant burden?
 - Is the request/complaint designed to cause disruption or annoyance
 - Does the request lack serious purpose or value?
 - Is the request/complaint being made with the purpose of following a personal agenda against the Council or its members/past members

Where the communication of the complainant/requester is considered unreasonably persistent, the Council may deal with vexatious complaints/requests in one or more of the following ways:

- In a letter, clearly stating the grounds for such a decision. This will include a warning that if their actions continue, the Council may decide to treat them as a 'vexatious' complainer/requester. The Council will provide a copy of this policy and explain that continuation of the behaviour may result in the Council imposing restrictions on further correspondence
- If the vexatious conduct or correspondence of the requester/complainant or group of persons acting together continues, the Council may refuse to respond to communications from that person or group of persons or may limit the amount of correspondence from them which will be dealt with.

The complainant/requester will be advised in writing that:

- their access to the Clerk and Members of Ryhill Parish Council will be suitably restricted
- what those restrictions will be
- that any decision to impose restrictions will be reviewed yearly
- that any decision to designate a complainant as unreasonable or unreasonably persistent would be shared with all members of Ryhill Parish Council

Restricting Contact

Restrictions on access to the Clerk and Members of the Parish Council will be agreed at the discretion of the Council or Clerk to the Council. Any restrictions will be appropriate and proportionate to the nature of the person's contacts with the Council at the time such as:

- Placing time limits on telephone conversations and personal contacts;
- Limiting the person to one form of contact (letter);
- Requiring the person to communicate with one named person/member
- 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;
- Closing the investigation into a complaint;
- Refusing to register and process further complaints/requests providing the person with acknowledgements only;
- Banning a person from the Council's premises;
- Where behaviour is so extreme that it threatens the immediate safety and welfare of staff or individual members of the Council, other options will be considered, e.g., the reporting of the matter to the police and taking legal action. In such cases, the complainant/requester will not be given prior notice of that action.

The Clerk will inform the complainant/requestor 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, usually one year.

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 the resources of the Council are used as effectively as possible.

Reviewing the status of restrictions

The status of the complainant/requester, who has been judged to be unreasonably persistent or vexatious, will be reviewed by the Clerk and the Chairman (or in their absence the Deputy Chairman) yearly.

The Complainant/requester will be informed of the result of this review if the decision to apply this policy has been changed or extended.

Threatening and Abusive People and Harassment

We do not expect staff or members to tolerate unacceptable behaviour by people 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.

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.

Where there is abusive or aggressive behaviour which produces damaging or hurtful effects, physically or emotionally, on the staff or members which includes, but not exclusively, verbal abuse (including name calling), bullying, shouting or swearing or threat of any of these behaviours the staff or members affected should step away from the situation and the person asked to leave the premises where appropriate.

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 person should be asked to leave the premises.

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.

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

Legal References

Under the Freedom of Information Act 2000 Section 14(1), public authorities do not have to comply with vexatious requests. The Council also has a legal duty under the Health and Safety at Work Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare at work of its employees and members.

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, address or contact details of each member of the public who is treated as abusive, vexatious or persistent
- Details of the restrictions imposed
- The dates on which restrictions were imposed and changed
- The date on which the complainant and Council were advised.

The Chair will be provided with an annual report giving information about members of the public who have been treated as vexatious/persistent as per this policy

Policy Review

This policy will be reviewed at the Council's annual meeting

The policy will be updated in response to relevant changes in legislation or advice provided by YLCA, or the Local Government Ombudsman or similar authority.

The policy review will consider the frequency of implementation and its effectiveness in achieving positive outcomes.

Appendix 1

Definition of a Vexatious Complainant/Requestor

This definition applies equally to someone making a complaint and to someone making a request for information.

Complainants (and/or anyone acting on their behalf) may be deemed to be vexatious where contact with them shows that they meet one or more of the following criteria:

- Having insufficient grounds for their complaint or making the complaint only to annoy
- Failing to specify the grounds of the complaint
- Refusing to co-operate with the complaint investigation process
- Insisting that the complaint is dealt with in ways that are incompatible with the complaints procedure or good practice
- Denying statements they made at an earlier stage of the complaints procedure.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other person(s) involved
- Regularly focus on a trivial matter to an extent which is out of proportion to its significance. It is recognised that determining what is a trivial matter can be subjective and careful judgement must be used in identifying frivolous complaints
- Persist in pursuing the same complaint repeatedly, perhaps with minor differences, after the Complaints Procedure or the Freedom of Information procedure has been fully implemented and exhausted
- Refusing to accept evidence given as being factual or deny the decision of the Complaints Committee and repeatedly arguing the point
- Have had an excessive number of contacts with the Council – placing unnecessarily excessive demands on the time and resources of staff whilst a complaint is being investigated
- Persistently approaching the Council about the same issue but through different routes or through different organisations.
- Refusing to accept that the issues are not within the remit of the Council to investigate
- Alleging that the complainant is being discriminated against on the grounds of disability, race, age, gender, sexual orientation or religion without good reason or evidence
- Using bullying, physical or psychological threats as a means to gain leverage with the Clerk or a member of the Parish Council
- Being part of a campaigning group, whose articles and activities have already caused distress and harassment to the Clerk and members of the Parish Council.

The complainant/requester does not have to have either used or be in the process of pursuing a complaint through the Council's Complaints Policy to be considered to be behaving in an unreasonably persistent or unreasonable manner.