

WINDLESHAM PARISH COUNCIL

VEXATIOUS OR UNREASONABLE COMPLAINT POLICY

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Version & Date	Amendments made
V1.0-201027	Adopted at Full Council meeting 27 th October 2020
V1.0-210223	Reviewed at Full Council meeting 23 rd February 2021
V1.0-210223	Reviewed at Full Council meeting 25 th October 2022
V1.0-231128	Reviewed at Full Council meeting 28 th November 2023
V1.0-241029	Reviewed at Full Council meeting 29 th October 2024

1 Introduction

1.1 Windlesham Parish Council aims to provide high quality services to all our customers. However, when things fall short of this standard, we will deal with those who have a complaint fairly, honestly and properly through the Council's Complaints Procedure. Most complainants pursue their complaints in a reasonable and acceptable manner. A very small minority, however:

- persist unreasonably with their complaints (persistent complainants), or
- make complaints in order to make life difficult for the council rather than to genuinely resolve a grievance (vexatious complainants), or
- are abusive, offensive or threatening (unreasonable complainants) and these are the definitions used within this policy.

This policy reflects the Guidance note on 'unreasonably persistent and unreasonable complainant behaviour' issued by the Local Government & Social Care Ombudsman ('the Ombudsman').

2 Definition of unreasonable complainant behaviour

2.1 People use the terms 'unreasonable complainant behaviour' and 'unreasonably persistent complainants'. For Windlesham Parish Council, vexatious, unreasonable and unreasonably persistent complainants are those contacts who, because of the frequency or nature of their contacts with the council, hinder the council's consideration of their, or other people's complaints. It is important to differentiate between 'persistent' complainants and 'unreasonably persistent' complainants. Arguably, many of the people who submit complaints are 'persistent' on an entirely reasonable basis because they feel the council has not dealt with their complaint properly and are not prepared to leave the matter there. Almost all complainants see themselves as pursuing justified complaints.

2.2 Unreasonable 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 are often not, and in either case 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 vexatious unreasonable and unreasonably persistent to behaviour, which is unacceptable, for example, abusive, offensive or threatening. Such complainants are in a very small minority, but sometimes the council finds itself in the

position of having to restrict access to council premises or even having to resort to legal action to address such behaviour, for example, in the form of anti-social behaviour orders or injunctions, or applying other sanctions to manage unacceptable behaviour. This may include for example limiting future contact to questions posed in the public participation section of a full council meeting.

2.3 This policy does not address the issues of health and safety but sits alongside the existing Council policies.

2.4 This guidance covers behaviour that is unreasonable, which 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. This may be across one or several service areas and will need to take due consideration of the respective time period over which contacts have been received. Complainants may be deemed to be vexatious as a result of their unreasonable behaviour where current or previous contact with them shows that they have met one or more of the following criteria:

- Persisting in pursuing a contact or enquiry or complaint where the Council's Complaints Procedure has been fully and properly implemented and exhausted.
- The substance of a complaint is changed, or new issues are raised persistently, or complainants seek to prolong contact by unreasonably raising further concerns, although care must be taken not to disregard new issues, which differ significantly from the original complaint.
- Complainants are unwilling to accept documented evidence of facts or deny receipt of an adequate response despite correspondence specifically answering their questions / concerns. This could also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- Complainants refuse to specify or do not clearly identify the precise issues or grounds they wish to be investigated despite reasonable efforts to help them to do so by staff.
- Complainants focus on a trivial matter to an extent, which is out of proportion with its significance, and continue to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgment must be used in applying the criterion.
- Complainants have, in the course of pursuing a registered complaint, had an excessive number of contacts (or unreasonably made multiple complaints) with the council placing unreasonable demands on council resources. Such contacts can include in person, by telephone, letter, fax or electronically (emails and social media). Discretion must be

exercised in deciding how many contacts are required to qualify as excessive, using judgment based on the specific circumstances of each individual case.

- Complainants have harassed or been abusive or verbally aggressive or threatening or bullying on one or more occasions towards staff dealing with their complaint – directly or indirectly – or their families and/or associates. All incidents of harassment or aggression must be documented, dated and reported to the Clerk.
- Complainants are known to have electronically recorded meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the outset of any investigation into their complaint(s) that such behaviour is unacceptable and can, in some circumstances, be illegal, and do not have the Council's permission to use it should they make any such record.
- Complainants making unnecessarily excessive demands on the time and resources of the Council or its staff whilst a complaint is being investigated, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Complainants refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Complainant refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Complainant insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Complainant making what appears to be groundless complaints about the staff dealing with the complaints and seeking to have them replaced.
- Complainant introducing trivial or irrelevant new information which the complainant expects to be considered and commented on or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Complainant adopting a 'scattergun' approach: pursuing a complaint or complaints with the council and, at the same time, with a Councillor.
- Combinations of some or all of these, which may include contact at both Council buildings, or offsite and including home visits.

2.5 Complaints may be deemed to be vexatious in any situation where physical violence has been used or threatened towards staff or their families/associates at any time. This will cause

personal contact with the complainant to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented and reported, also reporting where appropriate, to the police.

- 2.6 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 once, or more than once, should not necessarily cause him or her to be labelled unreasonably persistent. If complaints procedures are operating properly, then responding to expressions of dissatisfaction and requests for information should not cause the Council problems.

3 Dealing with unreasonable complaints

- 3.1 Where a complainant's contact with Windlesham Parish Council is considered to be unreasonable, the Clerk together with the Chair will decide if the behaviour is vexatious or unreasonable behaviour or not. A warning letter may be issued which will provide an opportunity for the individual to modify their behaviour. If the complainant is known personally to the either the Clerk or the Chair they must consider carefully their ability to be objective in the matter and if a conflict of interest could be perceived they should recuse themselves, in the event of which the matter will be referred to the Monitoring Officer.
- 3.2 The complainant should be informed that any further contact should be through a nominated officer or channel. The complainant(s) should be informed that any course of action taken as a result of the decision reached, only relates to contact with the council over their specific complaint(s). It does not, and is not intended to, have any impact on any other reasonable dealings between the council and the complainant(s) on other unrelated issues.
- 3.3 The Clerk and the Chair have the responsibility for identifying complainants as potentially acting in a vexatious or unreasonable manner. A referral will be made to Full Council who will recommend a course of action. The Clerk will implement such action and arrange to notify the complainant(s) promptly in writing with the reasons why they have been classified as

vexatious as a result of their unreasonable behaviour or unreasonably persistent behaviour and the action to be taken.

3.4 A record will be kept, for future reference, of the reasons why a complainant has been classified as vexatious and the action taken, the decision will be recorded on the Council's Vexatious and Unreasonable Behaviour Register.

3.5 Council may decide to deal with vexatious complainants in a number of ways:

- Once it is clear that a complainant meets any one of the criteria in section 2, it may be appropriate to inform them in writing that they are at risk of being classified as vexatious. A copy of this policy should be sent to them and they should be advised to take account of the criteria in any future dealings with council staff.
- Decline further contact with the complainant either in person, by telephone, fax, letter or electronically – or any combination of these – provided that one form of contact is maintained. Alternatively, in extreme cases further contact could be restricted to liaison through a third party, if costs are incurred by the complainant the council is not responsible.
- Notify complainant(s) in writing that Windlesham Parish Council considers it has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. Complainant(s) should be notified that correspondence is at an end and that further communications will not be acknowledged or answered.
- Inform complainants that if appropriate, the council reserves the right to refer the behaviour of unreasonable or vexatious complaints to the police. In exceptional circumstances, consideration can be given to the possibility of obtaining a High Court injunction to prevent the complainant harassing, threatening or causing distress to named or individual council employees.
- If a group of individuals are identified to be acting in a co-ordinated manner, so as to avoid any one individual being identified as acting in a vexatious or unreasonable manner, the Clerk will consider if a collective number of individuals on the group should be deemed as vexatious and be entered on to the register.

4 Withdrawing vexatious status

4.1 Once complainants have been classified as vexatious such status will continue to apply for a minimum period of six months, at the end of which period, it will be reviewed by the Full Council. The review will decide, either the status be continued for a further period of six months, and all relevant parties informed, or it will be withdrawn. This status can also be

withdrawn at any time if, for example, complainants subsequently demonstrate a more reasonable approach.

- 4.2 If a person on the Vexatious and Unreasonable Behaviour Register submits a further complaint, relating to a new matter(s), the normal complaints procedures would apply, within the terms of the status applied, i.e. contact only through a single point of contact, or is a specific format email only.
- 4.3 Where vexatious status is withdrawn, normal contact with complainants and application of the complaint's procedures will be resumed.

5 Review and Appeal Process

- 5.1 If the vexatious complainant is unhappy about the decision to place their name on the vexatious complainants register, they have a right to appeal. This must be done in writing, by making a single request for their appeal to be reviewed by Council. The request for a review of the decision, should set out in writing any reasons why they consider the decision unfair or wrong. Such requests should be made within 15 working days of them having been notified of the council's decision in writing. The appeal review will be held at the next Council meeting.