

HEMSWORTH TOWN COUNCIL

POLICY

for

**DEALING WITH ABUSIVE, PERISTENT
OR VEXATIOUS
COMPLAINTS/REQUESTS &
COMPLAINANTS/REQUESTERS**

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1. Aim of the Policy

- 1.1 This policy intends to assist in identifying and managing persons who seek to be disruptive to the Town Council, elected Members and members of staff through pursuing an unreasonable course of conduct. In cases of abusive, persistent or vexatious complaints/requests for information against a member of staff, this policy will work in conjunction with the Town Council's Dignity at Work Policy.
This policy can be used in conjunction with the FOI act 2000.
- 1.2 Habitual or vexatious complainants/requestors can be a problem for Council staff and Members. The difficulty in handling such issues is that they are time consuming and wasteful of resources in terms of Officer and Member time. While the Council endeavors to respond with patience and sympathy to the needs of all complainants/requestors there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.
- 1.3 This policy contributes to the overall aim of dealing with all complainants/requestors in ways which are demonstrably consistent, fair and reasonable.
- 1.4 This policy intends to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.
- 1.5 Wadebridge Town Council will take steps to protect staff who are subject to abusive or threatening behaviour as is its statutory responsibility as an employer.

2. Introduction

- 2.1 This policy identifies situations where a complainant/requestor, either individually or as part of a group, or a group of complainants/requesters, could be considered to be habitual or vexatious and provides ways for the Town Council to respond to these situations.
- 2.2 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'.
- 2.3 The term **complaint** in this policy includes requests made under the Freedom of Information 2000 and the Data Protection Act 1998 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts and any subsequent modification of this legislation.
- 2.4 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 vexatious or 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 them to be labelled vexatious or unreasonably persistent.
- 2.5 When dealing with any complaint/request the Town Council should consider:
 - i. the burden that complying with the complaint/request would bring on it;
 - ii. the motive of the complainant/requester;
 - iii. the value or serious purpose of the complaint/request;
 - iv. if dealing with the complaint/request would cause any harassment of or distress to staff.
- 2.6 Indicators that complaints/requests [which can be verbal (written or spoken), in person, by telephone or via information technology] are vexatious are if:

- i. they include abusive or aggressive language;
- ii. complainants/requesters can be said to bear a personal grudge or make completely unsubstantiated accusations against the Town Council, individual Councillors or specific employees;
- iii. requests from individuals are unreasonably persistent, frequent or overlapping;
- iv. the effort required to meet the complaint/request will be so grossly oppressive of strain on time and resources, that the Town Council cannot reasonably be expected to comply, no matter how legitimate the matter or valid intentions of the requester.

3. Habitual or Vexatious Complainants/Requesters

- 3.1 For this policy the following definitions of habitual or vexatious complainants/requesters will be used:

The repeated and/or obsessive pursuit of:

- unreasonable requests and/or unrealistic outcomes;
 - reasonable requests in an unreasonable manner.
- 3.2 Prior to considering its implementation the Town Council will send a copy of this policy to the complainant/requester to give them prior notification of its possible implementation.
- 3.3 Where complaints/requests continue and have been identified as habitual or vexatious in accordance with the criteria set out in Appendix A, the Town Council will seek agreement to treat the complainant/requester as a habitual or vexatious requester for the appropriate course of action to be taken. Section 5 details the options available for dealing with habitual or vexatious complaints/requests.
- 3.4 The Town Clerk, on behalf of the Town Council, will notify complainants/requesters, in writing, of the reasons why their complaint/request has been treated as habitual or vexatious and the action that will be taken. Cornwall Council will also be informed that a constituent has been designated as a habitual or vexatious complainant/requester.
- 3.5 The status of the complainant/requester will be kept under review. If a complainant/requester subsequently demonstrates a more reasonable approach, then their status will be reviewed (see Section 7).

4. Definitions

- 4.1 Hemsworth Town Council defines unreasonably persistent and vexatious complainants/requesters as those people who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their and/or other people's complaints/requests. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a complainant/requester.
- 4.2 Examples include the way in which, or frequency with which complainants/requesters raise their issues and how they respond when informed of the Town Council's decision about their complaint/request. For examples please see Appendix A.

5. Imposing Restrictions

- 5.1 The Town Council will ensure that the request is being, or has been addressed in accordance with procedure.
- 5.2 In the first instance the Town/Deputy Clerk will consult with the Chairman/Deputy Chairmain or their delegate prior to issuing a warning to the complainant/requester. The Town Clerk will contact the complainant/requester in writing, or by email, to explain why their 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.
- 5.3 If the disruptive behaviour continues, the Town Clerk will issue a further letter or an email to the complainant/requester advising them that the way in which they will be allowed to contact the Town Council in future will be restricted. The Town Clerk will make this decision in consultation with a panel of three members to include the Mayor. This letter will inform the complainant/requester in writing of what procedures have been put in place and for what period.
- 5.4 Any restriction that is imposed on the complainant/requester's contact with the Town Council will be appropriate and proportionate and they will be advised of the period over which that the restriction will be in place. In most cases restrictions will apply for between three to six months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis.
- 5.5 Restrictions will be tailored to deal with the individual circumstances of the complainant/requester and may include:
 - i. Banning the complainant/requester from making contact by telephone except through a third party e.g. , a Councillor or a friend acting on their behalf;
 - ii. Banning the complainant/requester from sending emails to individuals and/or all Town Council Officers and insisting they only correspond by postal letter;
 - iii. Requiring contact to take place with one named member of staff only;
 - iv. Restricting telephone called to specified days and/or times and/or duration;
 - v. Requiring any personal contact to take place in the presence of an appropriate witness;
 - vi. Letting the complainant/requester know that the Town Council will not respond to or acknowledge any further contact from them on the specific topic of that request (in this case, a designated member of staff will be identified who will read future correspondence from the complainant/requester).
- 5.6 When the decision has been taken to apply this policy to a complainant/requester, the Town Clerk will contact them in writing to explain:
 - Why the decision has been taken;
 - What action has been taken;
 - The duration of that action;
- 5.7 The Town Clerk will enclose a copy of this policy in the letter to the complainant/requester.
- 5.8 Where a complainant/requester continues to behave in a way that is unacceptable, the Clerk, in consultation with a panel of three Members (to include the Mayor) may decide to refuse all

contact with the complainant/requester and stop any investigation into his or her complaint/request.

- 5.9 Where the behaviour is so extreme, or it threatens the immediate safety and welfare of staff, other options will be considered, e.g. the reporting of the matter to the police or taking legal action. In such cases, the complainant/requester may not be given prior warning of that action.

6 New requests from complainants/requesters who are treated as abusive, vexatious or persistent

- 6.1 New complaints/requests from people who have come under this policy will be treated on their merits. The Clerk, in consultation with a panel of three Members (to include the Chair/Vice chair or delegate) will decide whether any restrictions that have been applied before are still appropriate and necessary in relation to the new complaint/request. A blanket policy is not supported, nor are ignoring genuine service complaints or requests.

- 6.2 The fact that a complainant/requester is judged to be unreasonably persistent or vexatious, and any restrictions imposed on Council's contact with him or her, will be recorded and notified to those who need to know within the Council.

7. Review

- 7.1 The status of a complainant/requester judged to be unreasonably persistent or vexatious will be reviewed by the Clerk and a panel of three Members (to include the Chair/Vice chair or delegate), after three months, and at the end of every subsequent three months within the period during which the policy is to apply.

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

8. Record Keeping

- 8.1 The Town Clerk will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:

- i. the name and address of each member of the public who is treated as abusive, vexatious or persistent, or any other person who so aids the complainer/requester;
- ii. when the restrictions came into force and ends;
- iii. what the restrictions are;
- iv. when the person and Town Council were advised.

- 8.2 The Town Council will be provided with a regular report giving information about members of the public who have been treated as vexatious/persistent as per this policy, as a confidential matter.

9 Appeals

- 9.1 Appeals against the Council's decision can be made to the Council in writing within 5 working days of the receipt of the decision.

- 9.2 Appeals will be heard by Wadebridge Town Council at a meeting of the Full Council.

Appendix A

Examples of Vexatious Complaints/Requests

An unreasonably persistent and/or vexatious complainant/requester may (this list is not exhaustive):

- a. Have insufficient or no grounds for their complaint/request and be making the complaint/request only to annoy (or for reasons that he or she does not admit or make obvious).
- b. Refuse to specify the grounds of a complaint/request despite offers of assistance.
- c. Refuse to co-operate with the complaint/request process while still wishing their complaint/request to be answered.
- d. Refuse to accept that issues are not within the power of the Council to investigate, change or influence.
- e. Make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint/request.
- f. Make what appears to be groundless complaints about the staff dealing with the complaints/requests, and seek to have them dismissed or replaced.
- g. Make an unreasonable number of contacts with the Town Council, by any means in relation to a specific number of complaints/requests.
- h. Make persistent and unreasonable demands or expectations of staff after the unreasonableness has been explained to the complainant/requester (an example of this could be a complainant/requester who insists on immediate responses to questions, frequent and/or complex letters, faxes telephone calls or e-mails).
- i. Harass or verbally abuse or otherwise cause stress to staff/Members dealing with their complaint/request, in relation to their complaint/request, by use of foul or inappropriate language or using offensive and racist language or publish their complaint/request in other forms of media or by an unreasonable fixation on an individual member of staff or councillor.
- j. Calling in to question the ability of a staff member.
- k. Raise subsidiary or new issues whilst a complaint/request is being addressed that were not part of the complaint/request at the start of the process.
- l. Introduce trivial or irrelevant new information whilst the complaint/request is being addressed and expect this to be taken into account and commented on.
- m. Change the substance or basis of the complaint/request without reasonable justification whilst the complaint/request is being addressed.

- n. Deny statements he or she made at an earlier stage in the complaint/request.
- o. Electronically record meetings and conversations without the prior knowledge and consent of the other person(s) involved;
- p. Adopts an excessively 'scattergun' approach, for instance, pursuing a complaint /request not only with the Council, but at the same time with, for example, a Member of Parliament, other Councils, elected Councillors of this and other Councils, the Council's Independent Auditor, the Standards Board, the Police, other public bodies or solicitors.
- q. 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.
- r. Make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and insist that the minor differences make this a 'new' complaint which should be put through different routes about the same issue.
- s. Persistently approach the Town Council through different routes about the same issue and persist in seeking an outcome which the Town Council has explained is unrealistic for legal or policy or other valid reasons.
- t. Refuse to accept documented evidence as factual.
- u. Complain about or challenge an issue based on an historic and/or an irreversible decision or incident.
- v. Circulate falsified, unsubstantiated or distorted information about staff or Members.
- w. FOI requests that contravene the FOI request which can be refused under sections 12 or 14, as set out in the legislation.
- x. Combine some or all of these features.