Kingham Parish Council Habitual or Vexatious Complaints Policy

Adopted by Kingham Parish Council on 17 July 2019

1 BACKGROUND

1.1 This document sets out guidance and procedures to help deal with people who repeatedly complain or raise the same issue or request to the Council or who complain in an unreasonable way, thereafter called the "complainant".

1.2 There are times when nothing further can be done to solve a real or perceived problem and continual contact with the person complaining or raising the same issue or request is time consuming and costly for the Council.

1.3 This document explains how to decide if a complaint, issue or request should be classed as habitual or unreasonable. It then gives advice about how the complaint, issue or request should be recorded. Finally, options are listed to help process such complaints, issues or requests, or cease contact with particular complainants.

2. INTRODUCTION

2.1 This policy identifies situations where a complainant or complainants, might be considered to be 'habitual or vexatious' and ways of responding to these situations.

2.2 In this policy the term habitual means 'done repeatedly or as a habit'. The term vexatious means 'irritating, annoying or causing distress'. This policy is intended to assist in identifying and dealing with persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.

2.3 It is recognised that complainants can use repeated FOI or Subject Access Requests as a means of perpetuating a complaint, issue or request which has been determined and therefore the term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 2018 as well as those made under the Council's complaints procedure.

2.4 Habitual or vexatious complainants can be a problem for Council staff. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer time and displace scarce human resources that could otherwise be spent on other Council priorities. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

3 HABITUAL OR VEXATIOUS COMPLAINANTS

3.1 For the purpose of this policy the following definition of habitual or vexatious complaints will be used:
"The repeated and/or obsessive pursuit of: (i) unreasonable complaints and/or unrealistic outcomes; and/or (ii) reasonable complaints in an unreasonable manner."

3.2 <u>Stage 1.</u>
Where complaints or requests continue and are considered to be habitual or vexatious in accordance with the criteria set out in Schedule A, the Clerk or Chairman will inform the individual informally that his/her behaviour is considered by the Council to be unreasonable or unacceptable, and request a changed approach.

<u>Stage 2</u>.
After taking into account the considerations set out in Schedule B and if there is no improvement in behaviour the Council will consider the matter, and, if considered necessary, will inform the complainant in writing that his/her behaviour falls under the terms of the habitual and vexatious complaints policy.
A copy of the policy will be sent to the individual with a letter giving details of any restrictions which will apply. Schedule C details the options available for dealing with such complainants. The letter should also state the length of time the restrictions are to apply and that any legitimate new complaint or request made in an acceptable manner will always be considered.

Once a complainant has been determined to be habitual or vexatious, their status will be kept under review for one year. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.

Stage 3.

Where there is dispute about action taken or not taken by the Council the complainant may refer the matter to the Local Government Ombudsman.

SCHEDULE A – Criteria for Determining Habitual or Vexatious Complainants

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet any of the following criteria: Where complainants:

1. Persist in pursuing a complaint where the Council's complaints process has been fully and properly implemented and exhausted.
2. Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed separately.
3. Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
4. Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite the reasonable efforts of staff to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate.
5. Regularly focus on matters which are not sufficiently serious to an extent which is out of proportion to their significance and continue to focus on these points. It is recognised that determining what is 'not sufficiently serious' can be subjective and careful judgement will be used in applying this criterion.
6. Have threatened verbally, or used physical violence towards employees at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. A complainant who threatens either verbally or in writing or uses actual physical violence towards an employee will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made. It should also be noted that Kingham Parish Council in consultation with the affected individuals will refer any actual or threatened verbal or physical abuse to Thames Valley Police for investigation.
7. Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax or any other means. Excessive contact will be determined taking into account the specific circumstances of each individual case.
8. Have harassed or been verbally abusive towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. Some complainants may have a mental health problem and there is a need to be sensitive in circumstances of that kind.
9. Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
10. Make unreasonable demands on the Council and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practice.
11. Make unreasonable complaints which impose a significant burden on the resources of the Council and where the complaint:
    - clearly does not have any serious purpose or value; or
    - is designed to cause disruption or annoyance; or
    - has the effect of harassing the Council; or
    - can otherwise fairly be characterised as obsessive or manifestly unreasonable.
12. Make repetitive complaints and allegations which ignore the replies which have been supplied in previous correspondence.

SCHEDULE B – Considerations prior to taking action under the policy

Different considerations will apply depending on whether the investigation of the complaint is ongoing or whether it has been concluded. To some extent the latter is easier to deal with. It is in effect the complainant simply refusing to take no for an answer, and the Council has the option of ending all communication with the complainant, and where appropriate referring the complainant to the Ombudsman. However, where the complaint is ongoing there needs to be some continuing contact with the complainant.

The decision to designate someone as a habitual and vexatious complainant is onerous and could have serious consequences for the individual. Before deciding whether the policy should be applied Councillors should be satisfied that:

- the complaint is being or has been investigated properly;
- any decision reached on it is the right one;
- communications with the complainant have been adequate; and
- the complainant is not now providing any significant new information that might affect the Council's view on the complaint or that the way in which the complainant has acted is unreasonable.

SCHEDULE C – Options for dealing with habitual or vexatious complaints

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.

1. A letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing one or more actions as indicated below.
2. Decline contact with the complainant, either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact is maintained. This may also mean that only one named person will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of these persons.
3. Notify the complainant, in writing, that the Council 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. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.
4. Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual or vexatious, while seeking advice or guidance from its legal advisers or other relevant agencies. This temporary suspension of contact may include the blocking of e-mails from the complainant to those who may have been subjected to harassment.