

## **Appendix 2 – Vexatious Complaints Procedure**

### **General**

1. This procedure identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual, unreasonably persistent, abusive or vexatious. This procedure intends to assist in identifying and managing persons who seek to be disruptive to the Grayshott Parish Council through pursuing an unreasonable course of conduct.
2. Habitual, unreasonably persistent, abusive or vexatious complaints can be a problem for Council staff and members. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of officer and member time. While 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. 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 a 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.
4. The aim of this procedure is to contribute to the overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

### **Definitions**

5. Habitual means 'done repeatedly or as a habit'.
6. Vexatious means 'denoting an action or bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant' (legal definition).
7. Complaints include requests made under the Freedom of Information Act 2000 and the Data Protection Act 2018.
8. Grayshott Parish Council defines habitual, unreasonably persistent, abusive and vexatious complainants as those complainants 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. This includes the way in which, or frequency with which, complainants raise their complaints with staff or how complainants respond when informed of the Council's decision about the complaint. The descriptions habitual, unreasonably persistent, abusive and vexatious may apply separately or jointly to a particular complainant.

## **Procedure**

9. For the purpose of this procedure, habitual, unreasonably persistent, abusive or vexatious complainants are the repeated and/or obsessive pursuit of unreasonable complaints and/or unrealistic outcomes; or reasonable complaints in an unreasonable manner.
10. Prior to considering its responding to a complaint using the Vexatious Complaints Procedure, the Council will send a summary of this procedure to the complainant to give them prior notification of its possible implementation.
11. Where complaints continue and have been identified as habitual, unreasonably persistent, abusive or vexatious in accordance with the criteria set out in the procedure, the Clerk and Full Council will seek agreement to treat the complainant as a habitual, unreasonably persistent, abusive or vexatious complainant for the appropriate course of action to be taken.

## **Options for restricting the contact with individuals who submit habitual, unreasonably persistent, abusive or vexatious complaints**

12. The Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.
13. In the first instance, the Clerk will consult with the Chair of the Council prior to issuing a warning to the complainant. The Clerk will contact the complainant in writing, or by e-mail, to explain why this 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.
14. If the disruptive behaviour continues, the Clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the Council in future will be restricted.
15. The Clerk will make this decision in consultation with the Chair of the Council and inform the complainant in writing of what procedures have been put in place and for what period. The Clerk on behalf of the Council will notify complainant, in writing, of the reasons why their complaint has been treated as habitual, unreasonably persistent, abusive or vexatious and the action that will be taken. The EHDC Councillor and Hampshire County Councillor for Grayshott will also be informed that an individual has been designated as a habitual, unreasonably persistent, abusive or vexatious complainant.
16. Any restriction that is imposed on the complainant's contact with the Council will be appropriate and proportionate and the complainant will be advised of the period of time 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, or at the next Full Council Meeting.

17. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
- banning the complainant from making contact by telephone except through a third party e.g. a solicitor, a councillor or a friend acting on their behalf;
  - banning the complainant from sending emails to individuals and/or all Council officers and insisting they only correspond by postal letter;
  - requiring contact to take place with one named member of staff only;
  - restricting telephone calls to specified days and/or times and/or duration;
  - requiring any personal contact to take place in the presence of an appropriate witness; and
  - letting the complainant know that the Council will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff will be identified who will read future correspondence).
18. When the decision has been taken to apply this procedure to a complainant, the Clerk will contact the complainant in writing to explain:
- why the decision has been taken;
  - what action has been taken; and
  - the duration of that action.
19. The Clerk will enclose a copy of this procedure in the letter to the complainant.
20. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed.
21. Where a complainant continues to behave in a way that is unacceptable, the Clerk, in consultation with the Chair the Council may decide to refuse all contact with the complainant and stop any investigation into their complaint.
22. 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 may not be given prior warning of that action.

**New Complaints from Complainants who are treated as habitual, unreasonably persistent, abusive or vexatious**

23. New complaints from people who have come under this procedure will be treated on their merits. The Clerk and the Chair of the Council will decide whether any restrictions that have been applied before are still appropriate and necessary in relation to the new complaint. A blanket policy is not supported, nor ignoring genuine service requests or complaints where they are founded.

## **Reviewing the status of a complainant that is considered habitual, unreasonably persistent, abusive or vexatious**

24. The status of a complainant judged to be habitual, unreasonably persistent, abusive or vexatious will be reviewed by the Clerk and the Chair of the Council after three months, and at the end of every subsequent three months within the period during which the policy is to apply, or by the next Full Council Meeting.
25. The complainant will be informed of the result of this review if the decision to apply this policy has been changed or extended.

## **Recording and Reporting**

26. 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 and address of each member of the public who is treated as habitual, unreasonably persistent, abusive or vexatious, or any other person who so aids the complainant;
  - when the restrictions came into force and ends;
  - what the restrictions are; and
  - when the person and Council were advised.
27. Full Council will be provided with a regular report giving information about members of the public who have been treated as habitual, unreasonably persistent, abusive or vexatious as per this policy.

## **Features of habitual, unreasonably persistent, abusive or vexatious complainants**

28. Features of complainants that may be considered as habitual, unreasonably persistent, abusive or vexatious include (but are not limited to) the criteria listed below. A single feature, on its own, does not necessarily imply that the person will be considered as being in this category. A habitual, unreasonably persistent, abusive or vexatious complainant may:
  - have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that they do not admit or make obvious);
  - refuse to specify the grounds of a complaint despite offers of assistance;
  - refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
  - refuse to accept that issues are not within the remit of the complaints procedure despite having been provided with information about the scope of the procedure;

- refuse to accept that issues are not within the power of the Council to investigate, change or influence;
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (e.g. insisting that there must not be any written record of the complaint);
- make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced;
- make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint or complaints;
- make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to questions, frequent and/or complex letters, telephone calls or emails);
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive, discriminatory or racist language or publish their complaints in other forms of media;
- raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process;
- introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on;
- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed;
- deny statements they made at an earlier stage in the complaint process;
- are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved;
- adopts a 'scattergun' approach, for instance, pursuing a complaint or complaints 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;
- 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;
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure;

- persistently approach the Council through different routes or other persons about the same issue;
- persist in seeking an outcome which Council has explained is unrealistic for legal or policy (or other valid) reasons;
- refuse to accept documented evidence as factual;
- complain about or challenge an issue based on an historic and/or an irreversible decision or incident; and
- combine some or all of these features.