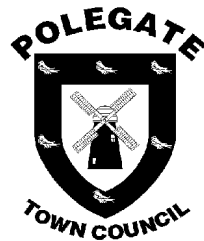


Polegate Town Council



UNREASONABLY PERSISTENT OR VEXATIOUS COMPLAINTS POLICY

Policy Number 31		
Issue No.	Date completed	Details of amendments
1	29/02/2016	To Town Clerk following amendments
2		To finance for discussion
3	23.05.2016	For adoption at Annual Stat Meeting
4	22.05.17	Adopted at Annual Stat Meeting

Introduction

Polegate Town Council is committed to dealing with all complaints equitably, comprehensively, and in a timely manner. Usually, dealing with complaints is a straightforward process, but in a minority of cases complainants pursue their case in a way that can impede the investigation of their complaint or have significant resource issues for the Council. This can happen either while their complaint is being investigated, or once the Council has finished dealing with the complaint.

The aim of this policy is to help the Council deal with unreasonably persistent or vexatious complainants in ways that are consistent and fair. It lets staff and customers know what we consider to be unreasonably persistent or vexatious behaviour. It sets out what is expected of staff when they are confronted with such behaviour, what options are available, and who can authorise the options.

Unreasonably persistent and/or vexatious complainants can be a problem for Council staff and members. The difficulty in handling such complainants can place a strain on time and resources. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants there are times when there is nothing further that can be done to assist or to rectify a real or perceived problem.

Definitions

In this policy the term 'unreasonably persistent' refers to those complainants who, because of the nature or frequency of their contact with the Council, hinder the Council's consideration of their, or other people's, complaints. 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*'. These terms are used in this policy to clarify that we are attempting to deal with persons who seek to be disruptive to the Council through pursuing unreasonable complaint behaviour.

The term 'complaint' in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1988 and reference to the complaints procedure is, where relevant, to be interpreted as meaning requests under those acts.

Scope of policy

This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints under the Council's complaints procedures. Judgement, discretion and proportionality must be used in applying the criteria to identify potential unreasonably persistent or vexatious complainants and in deciding on the appropriate action to be taken in specific cases.

The policy should only be invoked following careful consideration of all the issues by the Town Clerk in consultation with the Mayor or other Councillor.

Where the Town Clerk and the Mayor/Councillor are not in agreement over the appropriate course of action, the matter may be referred to the Full Council for a final decision.

Definition of an unreasonably persistent or vexatious complainant

Each case will be viewed individually and decided on its merits. However, a complainant (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent or vexatious if previous or current contact with them shows that they meet any of the criteria in Appendix 1, dependent upon degree.

Strategy for dealing with unreasonably persistent or vexatious complainants

Where complainants have been identified as unreasonably persistent or vexatious under the scope of this policy, taking account of the criteria in Appendix 1, the Town Clerk, in consultation with the Mayor or other Councillor, will determine what action to take. The Town Clerk will implement such action and will notify complainants, in writing, of the reasons why they have been classified as unreasonably persistent or vexatious and what action will be taken. They will also be notified of the review procedure below.

This notification may be copied for the information of others already involved in the complaint or matters closely related to it. A record must be kept for future reference of the reasons why a complainant has been classified as unreasonably persistent or vexatious.

The Town Clerk may decide to deal with complaints in one or more of the following ways:

- Banning the complainant from making contact by telephone except through a third party (e.g. solicitor/councillor/friend acting on their behalf).
- Banning the complainant from communicating with the Council by email.
- Banning the complainant from entering any Council building except by appointment.
- Restricting contact with the Council to one named member of staff only.
- Placing limits on the number and duration of contacts with staff per week or month.
- Restricting telephone calls to specified days/times/duration.
- Requiring any personal contacts to take place in the presence of a witness and in a suitable location.

- Informing the complainant that further contact on the matter of the complaint will not be acknowledged or replied to. In this case a designated member of staff should be identified who will read future correspondence.
- In extreme circumstances, where the complainant's behaviour is such that it threatens the safety and welfare of staff, reporting the matter to the Council's solicitors or to police. In cases of imminent risk, the complainant need not be given prior warning of that course of action

Review decisions and withdrawing 'unreasonably persistent or vexatious' status

Once a complainant has been determined as unreasonably persistent or vexatious, such status needs to be regularly reviewed and, where appropriate, withdrawn at a later date. Such action may be appropriate where a complainant subsequently demonstrates a more reasonable approach or submits a further complaint for which the normal complaints procedures would appear appropriate.

Complainants also have an opportunity to apply to have their unreasonably persistent or vexatious status withdrawn.

The Town Clerk, in consultation with the Mayor or other Councillor, will review their decisions to categorise a complainant as unreasonably persistent or vexatious at least every year. In addition, they will review that decision on receipt of a request to do so from the person so categorised, provided that such a request has not been received in the preceding six months.

If the person categorised as unreasonably persistent or vexatious is not satisfied with the decision reached by the Town Clerk, they may request that the decision is reviewed by the Council. Such a request for a review may only be received once in any six month period. Upon receipt of such a request, the Council will review the decision, in consultation with the Town Clerk and the Mayor or other Councillor who determined that the complainant was unreasonably persistent or vexatious.

The Council on review may either withdraw the categorisation of a person as unreasonably persistent or vexatious or amend the strategy being applied to that person.

If the Council considers it appropriate to withdraw the status of unreasonably persistent or vexatious complainant, normal contact with the complainant and application of the Council's complaints procedure will be resumed. Notice of that decision will be supplied to the person(s) as soon as practicably possible.

The Council's decision will be given to the complainant in writing, as far as is practicable, within two weeks of receipt of the request.

Copies of all decisions by the Town Clerk or the Council relating to the categorisation of a person as a unreasonably persistent or vexatious complainant will retained at the Council offices.

Timescale for dealing with unreasonably persistent or vexatious complainants

Stage one	Complaint received that appears to be unreasonably persistent or vexatious.	Day 1
	Complaint is acknowledged within 5 days of receipt	Day 5
	<p>The Clerk and Mayor (or Councillor) will examine the complaint.</p> <p>If the complaint is not judged to be unreasonably persistent or vexatious the Council's normal Complaints Procedure will apply.</p> <p>If the complaint is judged to be unreasonably persistent or vexatious the Town Clerk and Mayor or appointed Councillor will determine what action to take against the complainant. A response will be sent to the complainant no later than 15 days from the date of receipt of complaint.</p>	Day 15
Stage two	If the Town Clerk and the Mayor or other	As soon as practicable after the

	<p>appointed Councillor are unable to agree upon whether the complainant is persistent or vexatious; or what action should be taken against the complainant, a Special meeting of the Council shall be called as soon as practicable and in any event at least seven clear working days after the Town Clerk and Mayor/Councillor are unable to agree.</p>	<p>disagreement on action to be taken.</p>
<p>Stage three</p>	<p>Full Council meets to determine matters that could not be agreed upon in Stage 2 above.</p> <p>Once Full Council has determined the course of action a response will be sent to the complainant not more than 14 working days from the date of the meeting.</p>	<p>14 working days from date of Full Council decision</p>

Appendix 1

Unreasonably persistent and/or vexatious complaints behaviour includes what is listed below. The list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category. It may include:

Where complainants:

Refuse to accept the outcome of a complaint where the Council's complaints procedure has been fully and properly implemented and deny receiving an adequate response to their complaint.

Change the substance or basis of a complaint without reasonable justification whilst the complaint is being investigated.

Are unwilling to accept that the Council has reached a final decision on a chosen course of action.

Persist in pursuing a matter when they have already exhausted other statutory routes of appeal.

Refuse to specify the grounds of a complaint despite offers of assistance.

Refuse to accept that issues are not within the power of the Council to investigate, change or influence.

Introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account or commented on.

Make an unreasonable number of contacts with the Council, by any means, in relation to a specific complaint or complaints.

Making persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant.

Harass, verbally abuse or otherwise seek to intimidate staff dealing with their complaint, and/or use language that is offensive, inappropriate, racist, sexist or homophobic.

Making what appear to be unjustified complaints about staff who are trying to deal with the issues, and seeking to have them dismissed or replaced.

Covertly recording meetings and conversations.

Submitting falsified documents from themselves or others.

Adopting a 'scatter gun' approach; pursuing parallel complaints on the same issue with a variety of organisations.

