

ST CLEER PARISH COUNCIL

POLICY FOR DEALING WITH ABUSIVE, PERSISTENT OR VEXATIOUS MATTERS

IT SHOULD BE NOTED – This policy only deals with the conduct of the customer, not the substance of the complaint or concerns raised. The adopted procedures relating to the processing of complaints should be followed regardless of whether this policy is engaged, unless it is considered there are reasons for not doing so. If this is the case the customer should be advised of this at the earliest opportunity and if appropriate provided with an alternative route to remedy his complaint, such as referral to the Local Government Ombudsman.

1. Introduction

1.1 This policy identifies situations where an individual or as a part of a group, or a group of customers, might be considered to be habitual, abusive or vexatious and ways of responding to these situations. The term customers is adopted in this document for ease of identification

1.2 This policy intends to assist in identifying and managing persons who seek to be disruptive to the work of the Parish. 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’.
- The term disruptive means creating frivolous, fruitless, and petty agendas for the Council and its staff through pursuing an unreasonable course of conduct, often but not exclusively, accompanied by elements of abuse, slander or libellous comments.

1.3 The term complaint in this policy includes requests made under the Freedom of Information Act 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.

1.4 Habitual or vexatious customers can be a problem for Council staff and members. The difficulty in handling such customers 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 customers there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem. Additionally, when one ‘problem matter’ is constantly replaced with another.

1.5 We have developed this policy so that people who complain and the staff who manage those complaints understand what to do if people start to behave unreasonably. Occasionally, the behaviour of some customers can make it very difficult for us to deal with their concerns. In a small number of cases the actions of some customers becomes unacceptable because they involve abuse of staff or processes. When this happens we have a responsibility to our staff to take appropriate steps to limit the customers contact with the Council. On other occasions we have to consider whether a customer’s actions are having an impact on our ability to do our work and to provide a service to others.

1.6 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 individual(s). Similarly, the fact that a individual(s) 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 vexatious or unreasonably persistent.

1.7 The aim of this policy is to contribute to the overall aim of dealing with all customers in ways which are demonstrably consistent, fair and reasonable. It recognises that we will not tolerate behaviour which we deem to be unacceptable, threatening, abusive or unreasonably persistent towards staff or elected members.

2. Habitual or Vexatious customers

2.1 Sometimes a situation between the Council and a customer can escalate and the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening behaviour. For the purpose of this policy the following definition of habitual or vexatious customers will be used:

The repeated and/or obsessive pursuit of:-

- (1) unreasonable complaints and/or unrealistic outcomes; and or
- (2) reasonable complaints in an unreasonable manner; and or
- (3) unrealistic expectations of their influence on democratic decisions

2.2 Prior to considering its implementation the Council will send a summary of this policy to the individual(s) to give them prior notification of its possible implementation.

2.3 Where complaints continue and have been identified as habitual, abusive or vexatious in accordance with the criteria set out in Section 3, Parish will convene a panel of three members to including Chairman, the Vice Chairman of the Council and one other member to seek agreement to treat the individual(s) as a habitual abusive or vexatious individual(s) and for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious complaints. Should these individuals declare an interest they will be replaced by other members of Council

2.4 Parish on behalf of the Council will notify the elector(s), in writing, of the reasons why their behaviour has been classified as habitual, abusive or vexatious and the action that will be taken. The Cornwall Councillor for that area will also be informed that a constituent has been designated as a habitual, abusive or vexatious individual(s).

2.5 The status of the individual(s) will be kept under review. If an individual(s) subsequently demonstrates a more reasonable approach, then their status will be reviewed.

3. Definitions

3.1 Council defines unreasonably persistent and vexatious customers as those customers who, because of the frequency or nature of their contacts with the Council (direct or indirect), impact on the Council's resources, staff or democratic process. The description 'unreasonably persistent', 'abusive' and 'vexatious' may apply separately or jointly to a particular individual(s)

3.2 Examples include the way in which, or frequency with which, individual(s) raise their complaint or demands with staff or how customers respond when Council makes a decision which they disagree with.

3.3 Features of an unreasonably persistent and/or vexatious individual(s) include the following (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):

An unreasonably persistent, abusive and/or vexatious individual(s) may:

- Have insufficient or no grounds for their behaviour and be making the statement only to annoy or mislead (or for reasons that he or she does not admit or make obvious or for personal gain)
- Publish opinion and present it as fact intending to mislead or create disruption with scant regard to the impact(s)
- Present as intransigent, demanding and entrenched or set upon a path clearly to create disharmony and or to purposefully taint the reputation of the individual(s) they name
- Refuse to recognise a complaints process while still wishing their complaint(s) to be heard and or resolved
- Refuse to accept that information requests are not within the remit or purview of the general public
- Refuse to accept that a certain matter is not within the remit or purview of the Council
- Refuse to accept that issues are not within the power of the Council to change or influence.
- Insist on a matter being dealt with in ways which are incompatible with the policy, 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 /contractors, 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
- Making unjustified complaints about employees who are trying to deal with the issues, and seeking to have them replaced or harbouring personal grudges
- Harass or verbally abuse or otherwise seek to intimidate staff, contractors and Councillors by use of foul or inappropriate language or by the use of offensive and racist language or by intimidation (an example could be refusing to leave the meeting room on request)

- Introduce trivial or irrelevant information and demanding that this be investigated and expect this to be taken into account and commented on
- Electronically record meetings and conversations without the prior knowledge and consent of the other person(s) involved
- Adopts an excessively '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 Monitoring Officer, the Police or solicitors.
- Refuse to accept Council decisions after a legitimate vote, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- Make the same point repeatedly, perhaps with minor differences, insisting that the minor differences make these 'new' matter which should be put through the full process
- Persistently approach the Council or publish information through different routes 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
- Explicitly stating that it is their intention to cause disruption to the Council;
- Refusing to accept the decision; repeatedly arguing points with no new evidence;
- Using other family members to act on their behalf
- Combine some or all of these features

4. Imposing Restrictions

4.1 The Council will ensure that any legitimately presented complaint or request is being, or has been, investigated properly and will simply confirm this matter to the individual(s) concerned

4.2 In the first instance Parish will consult the Chairman or Vice Chairman of the Council prior to issuing a warning to the individual(s). Parish will contact the individual(s) in writing, or by email, to explain why their behaviour is causing concern and ask them to change their behaviour and outline the actions that the council may take if they do not comply.

4.3 If the disruptive behaviour continues, Parish will issue a reminder letter to the individual(s) advising them that the way in which they will be allowed to contact the Council in future will be restricted. This decision will be made following Parish consulting with a panel of three members to include usually the Chairman or Vice-Chairman of the Council. This letter will inform the individual(s) in writing of what procedures have been put in place and for what period.

4.4 Any restriction that is imposed on the individual(s)'s contact with the Council will be appropriate and proportionate and the individual(s) will be advised of the period of time that the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

4.5 Restrictions will be tailored to deal with the individual circumstances of the individual(s) and may include:

- Banning the individual(s) from making contact by telephone except through a third party eg a solicitor, a Councillor or a friend acting on their behalf
- Banning the individual(s) from sending emails to individual and/or all Council Officers and insisting they only correspond by 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
- Letting the individual(s) know that the Council will not reply to or acknowledge any further contact from them on the specific topic

4.6 When the decision has been taken to apply this policy to an individual(s), Parish will contact the individual(s) in writing to explain:-

- Why the decision has been taken
- What action is being taken

- The duration of that action

4.7 Parish will enclose a copy of this policy in the letter to the individual(s).

4.8 Where an individual(s) continues to behave in a way that is unacceptable, Parish, in consultation with a panel of three Members to include the Chairman or Vice Chairman of the Council may decide to refuse all contact with the individual(s) and stop any further acknowledgement of them

4.9 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, other options will be considered, eg the reporting of the matter to the police or taking legal action. In such cases, the individual(s) may not be given prior warning of that action.

5. New issues from customers who are determined to be as abusive, vexatious or persistent

5.1 New issues from people who have come under this policy will be treated on their merits. Parish, in consultation with a panel of three Members to include the Chairman or Vice Chairman 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.

5.2 The fact that an individual(s) is judged to be unreasonably persistent, abusive 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.

6. Review

6.1 The status of a individual(s) judged to be unreasonably persistent or vexatious will be reviewed by a panel of three members to include the Chairman or Vice Chairman 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.

6.2 The individual(s) will be informed of the result of this review if the decision to apply this policy has been changed or extended.

7. Record Keeping

7.1 Parish 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 abusive, vexatious or persistent
- When the restriction came into force and ends
- What the restrictions are
- When the person, Cornwall Councillor and Council were advised

7.2 The Council will be provided with an annual report giving information about members of the public who have been treated as vexatious/persistent as per this policy.

8. Confidentiality, legal requirements and non-compliance

- All personal data provided to the Council will be processed in accordance with the Data Protection Legislation
- Any breach of the policy may result in the Council being referred to the Local Government Ombudsman;

Adapted from Camelford Town Council's Policy and Cornwall Council's with their consent

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