



**Washingborough  
Parish Council**

# **ABUSIVE, PERSISTENT OR VEXATIOUS COMPLAINTS POLICY**

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**ABUSIVE, PERSISTENT OR VEXATIOUS COMPLAINTS POLICY**

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## **1. Introduction**

This policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual or vexatious and ways of responding to these situations.

In this policy the term habitual means “done repeatedly or as of 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”.

This policy intends to assist in identifying and managing persons who seek to be disruptive to the Parish Council, Councillors and/or members of staff through pursuing an unreasonable course of conduct. In cases of abusive, persistent or vexatious complaint against a member of staff, this policy will work in conjunction with the Parish Council’s Dignity at Work Policy.

The term complaint in this policy includes requests made under the [Freedom of Information Act 2000](#) and [Data Protection Act 2018](#) and reference to the Complaints Procedure is, where it is relevant, to be interpreted as meaning a request under those Acts.

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 cause him or her to be labelled vexatious or unreasonably persistent.

While the Parish 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 rectify a real or perceived problem.

## **2. Habitual or Vexatious Complaints**

The Parish Council defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Parish Council, hinder the Parish Council’s consideration of their or other people’s complaints. The description “unreasonably persistent” and “vexatious” may apply separately or jointly to a particular complainant.

For the purpose of this policy the following definition of habitual or vexatious complaints will be used:

### ***The repeated and/or obsessive pursuit of:***

- Unreasonable complaints and/or unrealistic outcomes,
- Reasonable complaints in an unreasonable manner.

Prior to considering its implementation the Parish Council will send a summary of this policy to the complainant to give them prior notification of its possible implementation.

Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the Parish Council (or appointed committee / working party) will seek agreement to treat the complainant as a habitual or vexatious complainant for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious complaints.

### **3. Definitions**

Examples of habitual or vexatious complaints include the way in which, or frequency with which, complainants raise their complaint with the staff or how complainants respond when informed of the Parish Councils decision about the complaint.

Features of an unreasonably persistent and/or vexatious complainant 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 and/or vexatious complainant may:

- Have insufficient or no grounds for their complaint and making the complaint only to annoy (or for reason that he or she does 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 the issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure,
- Refuse to accept that issues are not within the power of the Parish 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 a written record of the complaint),
- Make what appears to be groundless complaints about the staff dealing with the complaints, seek to have them dismissed or replaced, and make an unreasonable number of contacts with the Parish 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, faxes, telephone calls, e-mails or other social media communications),
- 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 offensive and racist language,
- 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 expects 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 the complainant made at an earlier stage in the complaint process,

- Electronically, or otherwise record meetings and conversations without prior knowledge and consent of the other people involved,
- Adopts an excessively “scatter gun” approach, for instance, pursuing a complaint or complaints not only with the Parish Council, but at the same time with, for example, a Member of Parliament, other Councils, Councillors of this and other Councils, the Parish Councils Independent Auditor, the Monitoring Officer, the Police 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 affect the outcome,
- Insist that these “new” complaints should be put through the full Complaints Procedure,
- Persist in seeking an outcome which the Parish 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,
- Combine some or all of these features.

#### **4. Imposing Restrictions**

The Parish Clerk, as responsible officer, will notify, on behalf of the Parish Council complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. North Kesteven District Council will also be informed that a constituent has been designated as a habitual or vexatious complainant.

The status of the complainant will be kept under review. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed.

The Parish Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure

In the first instance the Parish Clerk will consult with the Parish Council (or appointed committee/working party) prior to issuing a warning to the complainant. The Parish 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 Parish Council may take if they do not comply

If disruptive behaviour continues, the Parish Clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the Parish Council in future will be restricted. The Parish Clerk will make this decision in consultation with the Parish Council and inform the complainant in writing of what procedures have been put in place and for what period

Any restriction that is imposed on the complainant’s contact with the Parish Council will be appropriate and proportionate and the complainant 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 to 6

months, but in exceptional cases this may be extended. In such cases the restrictions will be reviewed on a quarterly basis

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 e-mails to individual and/or all Councillors and staff and insist they only correspond by letter,
- Requiring contact to take place with two named members 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 complainant know that the Parish 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)

When the decision has been taken to apply this policy to a complainant, the Parish Clerk will contact the complainant in writing to explain:

- Why the decision has been taken,
- What action is being taken,
- The duration of that action.

The Parish Clerk will enclose a copy of this policy in the letter to the complainant.

Where a complainant continues to behave in a way that is unacceptable, the Parish Clerk, in consultation with the Parish Council (or appointed committee/working party) may decide to refuse all contact with the complainant and stop any investigation into his or her complaint. Where the behaviour is so extreme or it threatens the immediate safety and welfare of the 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.

Any appointed committee / working party will consist of the Chairman, Vice Chairman and two other Councillors.

## **5. New Complaints (from complainants who are treated as abusive, vexatious or persistent)**

New complaints from people who have come under this policy will be treated on their merits. The Parish Clerk and the Parish Council (or appointed committee/working party) 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 is ignoring genuine service requests or complaints where they are founded.

The fact that a complainant is judged to be unreasonably persistent or vexatious and any restrictions imposed on the Parish Councils contact with him or her, will be recorded and those who need to know within the Parish Council informed.

## **6. Review**

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Parish Clerk, and the Parish Council (or appointed committee / working party) after three months, and at the end of every subsequent three months within the period during which the policy is to apply.

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

## **7. Record Keeping**

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

Records will be retained in line with the Records Retention Policy.

The Parish 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.