



Hawarden Community Council Vexatious Communications Policy

NOTE: This policy must be read in conjunction with the Council's Civility and Respect Pledge (October 2022), the Code of Conduct, the Hawarden Standard and the Bullying and Harassment policy.

1. INTRODUCTION:

- 1.1 This policy addresses issues arising from abusive, persistent or vexatious communications, **behaviour**, complaints and complainants and 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. The policy intends to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct. This policy applies to all complainants including members of the Council and members of public.
- 1.2 Habitual or vexatious complaints, communications **or behaviour**, create a notable problem for the Clerk to the Council and members. The difficulty in handling such complainants or communications is that they are time consuming and wasteful of resources in terms of the Clerk's and members' 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.
- 1.3 Raising of legitimate queries or criticisms, 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.
- 1.4 The aim of this policy is to contribute to the overall approach of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

2. HABITUAL OR VEXATIOUS COMPLAINANTS:

- 2.1 For the purpose of this policy habitual or vexatious complainants are identified as complainants who demonstrate the repeated and/or obsessive pursuit of:
 - i. unreasonable complaints and/or unrealistic outcomes; and/or
 - ii. reasonable complaints in an unreasonable manner.
- 2.2 Prior to considering its implementation the Council will send a summary of this policy to the complainant to give them prior notification of its possible implementation.
- 2.3 Where complaints continue and have been identified as habitual or vexatious, the Council will seek agreement to treat the complainant as a habitual or vexatious complainant for the appropriate course of action to be taken.
- 2.4 The Clerk and/or the Chair on behalf of the Council will notify complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken.
- 2.5 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.

3. DEFINITIONS:

- 3.1 Unreasonably persistent and vexatious complainants are defined 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 or communications or the effective operation of the Council. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 3.2 Examples include the way in which, or frequency with which, complainants raise their complaints with the Clerk or members or how complainants respond when informed of the Council's decision about the complaint.
 - 3.2.1. 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):

3.2.2. An unreasonably persistent and/or vexatious complainant may:

- i. have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)
- ii. refuse to specify the grounds of a complaint despite offers of assistance.
- iii. refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- iv. refuse to accept that 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.
- v. refuse to accept that issues are not within the power of the Council to investigate, change or influence
- vi. insist on the complaint being dealt with in ways which are incompatible with the complaint's procedure or with good practice (e.g. insisting that there must not be any written record of the complaint)
- vii. make what appear to be groundless complaints about the Clerk or members dealing with the complaints, and seek to have them dismissed or replaced
- viii. make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint or complaints
- ix. make persistent and unreasonable demands or expectations of the Clerk or members 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 or e mails)
- x. harass or verbally abuse or otherwise seek to intimidate the Clerk and/or members dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and racist language or publish their complaints in other forms of media
- xi. 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
- xii. introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be considered and commented on
- xiii. change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- xiv. deny statements he or she made at an earlier stage in the complaint process
- xv. are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved.

- xvi. 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
- xvii. 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
- xviii. make the same complaint repeatedly, perhaps with minor differences, after the complaint's procedure has been concluded and insist that the minor differences make these 'new' complaints which should be put through the full complaint's procedure
- xix. persistently approach the Council through different routes or other persons about the same issue
- xx. persist in seeking an outcome which Council has explained is unrealistic for legal or policy (or other valid) reasons
- xxi. refuse to accept documented evidence as factual.
- xxii. complain about or challenge an issue based on an historic and/or an irreversible decision or incident
- xxiii. combine some or all of these features.

4. IMPOSING RESTRICTIONS:

- 4.1 The Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.
- 4.2 In the first instance the Clerk will consult with the Chair of the Council prior to issuing a warning to the complainant. The Clerk **in conjunction with** the Chair of the Council 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.
- 4.3 If the disruptive behaviour continues, the Clerk **in conjunction** with the Chair of the Council will issue a written reminder to the complainant advising them that the way in which they will be allowed to contact the Council in future will be restricted. ~~The Clerk and the Chair of the Council~~ and **will** inform the complainant in writing of what procedures have been put in place and for what period.

4.4 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. Restrictions may apply on either a short term, long term or permanent basis depending on the circumstances of the case.

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

- i. 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
- ii. banning the complainant from sending emails to individual members and/or the Clerk and insisting they only correspond by postal letter
- iii. requiring contact to take place with one named member of staff only.
- iv. restricting telephone calls to specified days and/or times and/or duration.
- v. requiring any personal contact to take place in the presence of an appropriate witness.
- vi. 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.

4.6 When the decision has been taken by the Council to apply this policy to a complainant, the Clerk or the Chair of the Council will contact the complainant in writing enclosing a copy of this policy to explain:

- i. why the decision has been taken.
- ii. what action has been taken.
- iii. the duration of that action.

4.7 Where a complainant continues to behave in a way that is unacceptable, the Clerk, in consultation with the Chair of the Council and if necessary, the Monitoring Officer may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

4.8 Where the behaviour is so extreme or it threatens the immediate safety and welfare of the Clerk or members, other options will be considered, such as reporting of the matter to the Monitoring Officer, the Public Services Ombudsman, the police or taking legal action. In such cases, the complainant may not be given prior warning of that action.

5. NEW COMPLAINTS FROM COMPLAINANTS WHO ARE TREATED AS ABUSIVE VEXATIOUS OR PERSISTENT:

5.1 New complaints from people who have come under this policy will be treated on their merits. The Clerk, 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.

5.2 The fact that a complainant is judged to be unreasonably persistent 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 complainant judged to be unreasonably persistent or vexatious will be reviewed periodically by the Clerk and the Chair of the Council at least every 6 months or such shorter period for which the policy applies.

6.2 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:

7.1 The Clerk will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:

- i. the name and address of each member of the Council or member of the public who is treated as abusive, vexatious or persistent, or any other person who so aids the complainant.
- ii. when the restrictions came into force and ends
- iii. what the restrictions are
- iv. when the person and Council were advised.

7.2 The Council will be provided with a regular report giving information about members of the Council or members of the public who have been treated as vexatious/persistent in accordance with this policy.