

 <p>Broughton &amp; Milton Keynes PARISH COUNCIL</p>		<b>Policy Name: Vexatious Policy (MASTER)</b>		
		<b>Policy Number: BMK-PC05</b>		
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<b>Approved by and date:</b>		Full Council on 06/11/17		
<b>Responsible Committee:</b>		Full Council		
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1.0	06/11/17 (12.5)	07/11/17		NEW

## Purpose of the Policy

Set out how the Parish Council and its Officers deal with abusive, persistent or vexatious complaints and complainants.

### 1. Introduction

- 1.1 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.
- 1.2 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'. This policy intends to assist in identifying and managing persons who seek to be disruptive to the Parish Council through pursuing an unreasonable course of conduct.
- 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 requests under those Acts.

- 1.4 Habitual or vexatious complainants can be a problem for Officers and Parish Councillors. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer and Parish Councillor time. 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 to rectify a real or perceived problem.
- 1.5 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 him or her to be labelled vexatious or unreasonably persistent.
- 1.6 The aim of this policy is to contribute to the overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

## **2. Definitions**

- 2.1 We have adopted the Local Government Ombudsman's (LGO) definition of ***“unreasonable complainant behaviour”*** and ***“unreasonable persistent complaints”***
- 2.2 The Parish Council defines unreasonably persistent 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. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 2.3 Examples include the way or frequency that complainants raise their complaint with staff or how complainants respond when informed of the Council's decision about the complaint. Common attributes of an unreasonably persistent and/or vexatious complainant are listed in section 8 to this document.

## **3. Habitual or Vexatious Complainants**

- 3.1. 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.

- 3.2 Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the Parish Clerk will seek agreement from the Parish Council 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.
- 3.3 In the interests of the confidentiality of the complainant, the Parish Council reserves the right to treat all complaints, including those that could potentially be agreed as vexatious, as confidential matters at Parish Council meetings and any relevant Committees. This would mean excluding the public and press from that portion of the meeting. Such items would not form part of the publicly available meeting agenda and minutes.
- 3.4 The Parish Clerk on behalf of the Parish 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.
- 3.5 Milton Keynes Ward Councillors will also be informed that a constituent has been designated as a habitual or vexatious complainant.
- 3.6 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.

## **4. Imposing Restrictions**

- 4.1 The Parish 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 Parish Clerk will bring any cases of a possibly abusive, persistent or vexatious complaint or complainants to the full Parish Council at the earliest opportunity.
- 4.3 Actions will be tailored to deal with the individual circumstances of the complainant. The Parish Council may choose from, but is not limited to, any of the following courses of action, in any order:
  - (a) Banning the complainant from making contact by telephone, email or letter except through a third party e.g. solicitor/councillor/friend acting on their behalf.
  - (b) Banning the complainant from sending emails to individual and/or all council officers and insisting they only correspond by letter.
  - (c) Requiring contact to take place with one named member of staff only.
  - (d) Restricting telephone calls to specified days / times / duration.

- (e) Requiring any personal contact to take place in the presence of an appropriate witness.
  - (f) 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 should be identified who will read future correspondence).
- 4.4 When the Parish Council decides to take action against a complainant it will also decide a reasonable period after which the full Parish Council will review the status of the complainant (see 6.1 and 6.2 below).
- 4.5 When the Parish Council has taken the decision to apply this policy to a complainant, the Parish Clerk will contact the complainant in writing to explain:-
- (a) Why the decision has been taken;
  - (b) What action is being taken;
  - (c) The duration of that action.
- 4.6 The Parish Clerk will enclose a copy of this policy in the letter to the complainant.
- 4.7 Where a complainant continues to behave in a way which is unacceptable, the Parish Council may decide to refuse or restrict all contact with the complainant and stop or suspend any investigation into his or her complaint.
- 4.8 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.

## **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 Parish Council will decide whether any restrictions which have previously been applied are still appropriate and necessary in relation to the new complaint.
- 5.2 The fact that a complainant is judged to be unreasonably persistent or vexatious and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know within the Parish Council.

## **6. Review**

- 6.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Parish Council after a period agreed by the Parish Council and then at the end of subsequent periods determined by the Parish Council within the period during which the policy is to apply. If the Parish Council does not agree a different period for these reviews, then the default period will be three months.
- 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 Records will be retained by the Parish Clerk of the details of the case and the action that has been taken. Records will be kept of:
- (a) The name, address and email of each member of the public who is treated as abusive, vexatious or persistent.
  - (b) When the restriction came into force and ends.
  - (c) What the restrictions are.
  - (d) When the person and Parish Council were advised.

## **8. Common attributes of an unreasonably persistent and/or vexatious complainant**

- 8.1 An unreasonably persistent and/or vexatious complainant may have the following attributes: (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):
- (a) 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).
  - (b) Refuse to specify the grounds of a complaint despite offers of assistance.
  - (c) Refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
  - (d) 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.
  - (e) Refuse to accept that issues are not within the power of the Parish Council to investigate, change or influence.

- (f) 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).
- (g) Make what appear to be groundless complaints about the Officers dealing with the complaints, and seek to have them dismissed or replaced.
- (h) Make an unreasonable number of contacts with the Parish Council, by any means in relation to a specific complaint or complaints.
- (i) Make persistent and unreasonable demands or expectations of Officers 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 numbers, frequent and/or complex letters, faxes, telephone calls or emails).
- (j) Repeatedly make Freedom of Information requests on the same subject or perhaps with minor differences. Section 14(1) of the Freedom of Information Act 2000 applies.
- (k) Harass or verbally abuse or otherwise seek to intimidate Officers and/or Parish Councillors dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and discriminatory language (gender, race, disability, age, sexual orientation, religion).
- (l) 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.
- (m) Introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on.
- (n) Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
- (o) Deny statements he or she made at an earlier stage in the complaint process.
- (p) Electronically record meetings and conversations without the prior knowledge and consent of the other person involved.

- (q) Adopts an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Parish Council, but at the same time with a Member of Parliament, other councils, elected councillors of this and other councils, the council's independent auditor, the Standards Board, the police, solicitors.
- (r) 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.
- (s) 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.
- (t) Persistently approach the council through different routes about the same issue.
- (u) Persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons.
- (v) Refuse to accept documented evidence as factual.
- (w) Approach Officers and/or Parish Councillors at their home. In the case of Parish Councillors, their place of work.
- (x) Complain about or challenge an issue based on an historic an irreversible decision or incident.
- (y) Combine some or all of these features.