



MEDSTEAD PARISH COUNCIL

VEXATIOUS AND ABUSIVE COMPLAINTS POLICY

1. Introduction

This policy is about the management of vexatious, unreasonably persistent or abusive complainants. It sets out how Medstead Parish Council will identify and deal with complainants that fall within the scope of this definition.

Medstead Parish Council is committed to delivering good services to all residents, and if things go wrong, will deal with any complaints equitably and consistently through its Code of Practice for Handling Complaints, to be read in conjunction with this policy.

The Council needs this policy because complainants who are vexatious, unreasonably persistent or abusive (whether singly or as part of a group) are wasteful of the Clerk's and Councillor's time and affect the Council's ability to conduct its normal business. Also, the Council has legal obligations to protect its staff from unacceptable behaviour.

2. Definitions

In law, 'vexatious' describes legal actions or requests that are made without sufficient grounds and are intended to cause annoyance, disruption, harassment, or expense to the other party. According to the Information Commissioner's Office, it is a term for a "manifestly unjustified, inappropriate or improper use of a formal procedure".

A complaint does not have to be deliberately or maliciously vexatious to be classified as such. While intent can be a factor, in law the determination is primarily based on an objective assessment of the complaint's effect and characteristics, rather than the complainant's subjective motivation.

For the purposes of this policy, the Council also includes complaints that may have genuine intentions but where the complainant is unreasonably persistent, such as repeated, unacceptable levels of contact, not allowing a complaint to close, keep changing the information provided, pushing things that are outside of the Council's control and a whole range of other behaviours that are described in section 3. This can also be classed as vexatious behaviour as it causes levels of harassment, time-wasting and disruption equal to complaints deliberately raised without foundation.

The Council will use good judgement when determining if a complainant is unreasonably persistent. 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, should not automatically cause him or her to be labelled vexatious or unreasonably persistent.

Habitual complainants who make frequent complaints will not automatically be considered as vexatious as the grounds for their complaints will always be considered. However, they will be treated as vexatious complainants if it becomes clear that their complaints are just repetitions of previous complaints that have been dealt with, or are multiple ungrounded complaints or trivial complaints designed to waste time and cause disruption and harassment.

When a complainant behaves towards staff or Councillors in a way that is abusive such as through language, bullying and inappropriate use of social media, it is also subject to this policy, regardless of

whether the original complaint had a good foundation, as such behaviour is unacceptable and impedes the ability to deal with the complaint in the correct manner.

For the purposes of this policy, the term 'complaint' also includes information requests made under the Freedom of Information Act 2000, the Environmental Impact Regulations 2004, the Data Protection Act 2018 and the UK General Data Protection Regulation (UK GDPR) and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.

Such information requests are included because it is clear that some vexatious complainants also use information requests deliberately to waste time and cause disruption, as well as some people who are not complaining but misusing the process when they have no real purpose for the information obtained. This is particularly the case if multiple information requests are received and there is some legal protection for the Council against this.

Residents have legal rights to make appropriate requests for information. However, the Council can determine if a request is vexatious, taking into account the amount of work involved, whether it is a repeated request, the history of previous requests by that person or whether the request has no apparent purpose.

Section 14 of the Freedom of Information Act 2000 states that public authorities do not have to comply with a request if it is considered vexatious or is a repeated one. It says:

"Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.

Where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request".

Section 12(4) of the Environmental Regulations 2004 say that an organisation can refuse a request if it is 'manifestly unreasonable', provided the public interests in maintaining the exception outweighs the public interest in disclosing it. There is also a possibility of levying fees.

General Data Protection Regulations say that organisations can refuse to act on or charge fees for requests that are "manifestly unfounded or excessive", with one of indicators being that it is intended to cause disruption or harassment with no real purpose.

3. Characteristics of vexatious or abusive complainants

The following are frequent characteristics of when people are acting vexatiously or abusively, deliberately or otherwise. A single instance does not necessarily imply vexatious behaviour and the Council will use its judgement when identifying vexatious complainants and when communicating reasons to them.

This list is not exhaustive and other characteristics may also apply.

- Have insufficient or no grounds for their complaint and making the complaint only to annoy or cause disruption (or for reasons 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 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 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 any written record of the complaint);
- Make what appear to be groundless complaints about the way in which the complaint is being dealt with and seek to have them dismissed or replaced.
- Make an unreasonable number of contacts with the Council, by email, phone calls, voicemails, face to face or any other 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, phone calls or e-mails).
- Harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul, derogatory or inappropriate language or by the use of offensive and racist language
- Publish their complaints in other forms of media.
- Use social media to make unfounded allegations against the Council, its staff or councillors.
- 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 expect 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 he or she made at an earlier stage in the complaint process.
- Are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved.
- 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 Police, other public bodies 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 make these 'new' complaints which should be put through the full complaints procedure.
- Persistently approach the Council through different routes or other persons 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.
- Use threatening or intimidating language or behaviour
- Combine some or all of these features.

4. Procedure for dealing with vexatious and abusive complainants and imposing restrictions

An individual can be identified as vexatious whilst trying to implement the normal Code of Practice for Handling Complaints in dealing with their complaint if any of the behaviours listed in section 3 make it unreasonable, impossible or futile to carry on due to their current behaviour.

They can also be considered vexatious after their complaint has been dealt with by following the normal procedure if they continue with repeated manifestations of these behaviours.

The steps that the Council will take are as follows:

- i. The Parish Council will ensure that the complaint is being or has been, investigated properly according to the adopted complaints procedure.
- ii. The Clerk will consult with the Chairman of the Parish Council prior to issuing a warning to the complainant. The 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 a summary of this policy and the actions that the Council may take if they do not comply
- iii. If the disruptive behaviour continues, the 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 Clerk will make this decision in consultation with the Chairman of the Council and inform the complainant in writing of what procedures have been put in place and for what period.
- iv. 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. In most cases restrictions will apply for between three to six months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis, or at the next Full Council Meeting.
- v. 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 emails to individuals and/or all Councillors and insisting they only correspond by postal 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 complainant know that the Parish Council will not respond 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).
- vi. When the decision has been taken to apply this policy to a complainant, the Clerk will contact the complainant in writing to explain:
 - why the decision has been taken.
 - what action has been taken.
 - the duration of that action.
- vii. The Clerk will enclose a copy of this policy in the letter to the complainant.
- viii. Where a complainant continues to behave in a way that is unacceptable, the Clerk, in consultation with the Chairman of the Council may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- ix. Where the behaviour is so extreme or it threatens the immediate safety and welfare of the Clerk and Councillors, 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 vexatious or abusive

New complaints from people who have come under this policy will be treated on their merits. The Clerk and the Chairman of the Parish 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.

The fact that a complainant is judged to be or vexatious (including being unreasonably persistent) together with any restrictions imposed on the Council's contact with him or her, will be recorded and notified to those who need to know within the Council.

6. Review

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Clerk and the Chairman of the Parish Council after three months and at the end of every subsequent three months within the period during which the policy is to apply, or by the next Full Council Meeting.

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 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, or any other person who so aids the complainant.
- when the restrictions came into force and ends
- what the restrictions are
- when the person and Council were advised.

Full Council will be provided with a regular report giving information about members of the public who have been treated as vexatious/persistent as per this policy.