

# Upton Magna Parish Council

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## VEXATIOUS COMPLAINTS POLICY

This document sets out guidance and procedures to help deal with people who repeatedly complain to the Council or who complain in an unreasonable way.

Whilst 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. In these circumstances continual contact with the person complaining is time consuming and costly for the Council. There are also times when reasonable requests are made in an unreasonable manner, causing irritation, annoyance and distress.

This document explains how to decide if a complaint should be classed as habitual or unreasonable. It then lists actions that may be taken to deal with such complainants.

### Definition

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 is intended to assist in identifying and dealing with persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.

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

**"The repeated and/or obsessive pursuit of: (i) unreasonable complaints and/or unrealistic outcomes; and/or (ii) reasonable complaints in an unreasonable manner."**

It is recognised that complainants can use repeated FOI or Subject Access Requests as a means of perpetuating a complaint which has been determined and therefore the term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 as well as those made under the Council's complaints procedure.

## Criteria

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet any of the following criteria. Where complainants:

1. Persist in pursuing a complaint where the Council's complaints process has been fully and properly implemented and exhausted.
2. Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed separately.
3. Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
4. Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite the reasonable efforts of staff to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate.
5. Regularly focus on matters which are not sufficiently serious to an extent which is out of proportion to their significance and continue to focus on these points. It is recognised that determining what is 'not sufficiently serious' can be subjective and careful judgement will be used in applying this criterion.
6. Have threatened verbally, or used physical violence towards employees at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. **A complainant who threatens either verbally or in writing or uses actual physical violence towards an employee will be regarded as a vexatious complainant.** The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made. It should also be noted that Upton Magna Parish Council in consultation with the affected individuals will refer any actual or threatened verbal or physical abuse to West Mercia Police for investigation.
7. Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council. A contact may be in person, by telephone, letter,

email or fax or any other means. Excessive contact will be determined taking into account the specific circumstances of each individual case.

8. Have harassed or been verbally abusive towards the employee dealing with the complaint. It is recognised that complainants may sometimes act out of character in times of stress, anxiety or distress and reasonable allowances will be made for this. Some complainants may have a mental health problem and there is a need to be sensitive in circumstances of that kind.

9. Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.

10. Make unreasonable demands on the Council and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practice.

11. Make unreasonable complaints which impose a significant burden on the resources of the Council and where the complaint:

- clearly does not have any serious purpose or value; or
- is designed to cause disruption or annoyance; or
- has the effect of harassing the Council; or
- can otherwise fairly be characterised as obsessive or manifestly unreasonable

12. Make repetitive complaints and allegations which ignore the replies which have been supplied in previous correspondence.

### **Course of action**

Where complainants have been identified as habitual or vexatious in accordance with the criteria set out above, the Clerk in consultation with the Chairman of the Council will as appropriate take one or more of the following courses of action:

1. The Clerk or Chairman will inform the individual informally that their behaviour is considered by the Council to be unreasonable or unacceptable, and request a changed approach.

2. The complainant will be notified in writing that their behaviour falls under the terms of the Vexatious Complainant Policy. They will be reminded of the proper complaints procedure.

3. The complainant will be notified, in writing, that either
  - a) the Council has responded fully to the points raised and has tried to resolve the complaint but that there is nothing more to add and that continuing contact on the matter will serve no useful purpose, or;
  - b) The complainant's behaviour has caused them to be classified as a vexatious complainant.

The complainant will be notified that the correspondence is therefore at an end, advising the complainant that they are being treated as a persistent or vexatious complainant and as such the Council does not intend to engage in further correspondence. The letter should also state the length of time the restrictions are to apply.

4. The Council will decline further contact with the complainant, either in person, by telephone, by fax, by letter or by e-mail or by any other means.

5. If the vexatious behaviour persists, the complainant will be informed that the Council may seek legal advice.

6. The complainant will be notified of the contact details of the local Government ombudsman and invited to contact that office if they wish to take the matter further.

7. The Council may temporarily suspend all contact with the complainant while seeking advice or guidance from its legal advisers or other relevant agencies. This temporary suspension of contact may include the blocking of e-mails, phone calls and other forms of messaging.

The Council will be notified of vexatious or habitual complainants.

### **Withdrawing habitual or vexatious status**

Once a complainant has been determined to be habitual and/or vexatious, their status will be kept under annual review. Council may decide to review their status sooner if they subsequently demonstrate a more reasonable approach or if they submit a different complaint following the proper complaints procedure.

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