



BEMBRIDGE PARISH COUNCIL

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VEXATIOUS POLICY

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BEMBRIDGE PARISH COUNCIL

VEXATIOUS POLICY

1. Introduction

Bembridge Parish Council will not tolerate any deceitful, malicious, abusive, threatening, or offensive behaviour. Bembridge Parish Council has a duty of care to protect its staff and members from this kind of behaviour and will impose restrictions where necessary to achieve this.

2. The Policy & Definitions

- 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, abusive or vexatious and the ways in which the Parish Council may respond.
- 1.2. This policy intends to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.
- 1.3. In this policy the term '**habitual**' means 'done repeatedly or as a habit'.
- 1.4. 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*'. It also means "*causing or tending to cause annoyance, frustration, or worry.*"
- 1.5. The term '**complaint**' in this policy includes requests made within Section 2.1 and any requests under the Freedom of Information Act 2000 and the Data Protection Act 2018 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts. It is important to note, however, that each request for information, complaint or FOI request is dealt with on its own merits and in the case of a FOI request it is the request that could be deemed as Vexatious and not the person submitting the request.
- 1.6. The term '**complainant**' can be applied to a member of the public.
- 1.7. '**Contact**' includes in person, by telephone, letter, email, internet or fax or any other means. Excessive contact will be determined taking into account the specific circumstances of each individual case.
- 1.8. Habitual or vexatious complainants can be a problem for Council staff and members. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer and Member 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 reasonably can be done to rectify a real or perceived problem.

- 1.9 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 request for information and / or 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.
- 1.10 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.

3. Habitual, Abusive or Vexatious Complainants

- a. For the purpose of this policy examples of habitual or vexatious behaviour include but are not limited to:
- a) Unreasonable complaints and/or unrealistic outcomes and/or reasonable complaints in an unreasonable manner.
 - b) Information requested already in the public domain given previously to this complainant or a member of a group to which the complainant may be affiliated
 - c) Abusive or offensive content posted on any Social Media platforms.
- b. Where requests for information and / or complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the Clerk together with the Staffing Committee 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.)
- c. Prior to considering its implementation the Council will send 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.

4. Complaints

- a. Bembridge Parish Council defines unreasonably persistent, abusive 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 requests for information or complaints. The description 'unreasonably persistent' "abusive" and "vexatious" may apply separately or jointly to a particular complainant.
- b. An unreasonably persistent and/or vexatious complainant may (in the case of a complaint):
- 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)
 - 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 not within the remit of the complaint policy
 - Make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
 - Make an unreasonable number of contacts with the 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 or emails)

- 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 the use of 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 he or she made at an earlier stage in the complaint process
- Electronically record meetings and conversations without the prior knowledge and consent of the other person(s) involved
- Adopts an excessively '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 or solicitors.
- 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.
- Persistently approach the Council through different routes 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
- Combine some or all of these features

5. Imposing Restrictions

- a. Bembridge Parish Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure detailed below.
- b. In the first instance the Clerk will consult with the Chair of the Council and the Chair of the Staffing Committee prior to issuing a warning to the complainant(s). The Clerk to the Council will contact the complainant(s) in writing or by email.
- c. The Clerk will 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.
- d. 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 Council Staff in future will be restricted. The Clerk will make this decision in consultation with the Chair of the Council and the Chair of the Staffing Committee and inform the complainant in writing of what procedures have been put in place and for what period.
- e. 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 restriction and also the period of time that the restriction will be in place. In most cases restrictions will apply for between 3-6 months, but in exceptional cases this may be longer. In such

cases the restrictions will be reviewed quarterly.

- f. Every case will be dealt with on an individual basis and restrictions can include:
- Banning the complainant from sending emails to individual and/or all Council Members including Office Staff and insisting they only correspond as instructed so to do by post/letter or dedicated email address.
 - Where Contact is restricted to letter such letters must not be hand delivered to the Council's offices by the complainant, nor should the complainant deliver letters in person during Council meetings. In this situation the complainant is required to correspond by post only.
 - Any person deemed as being vexatious must not enter the Council's offices without being invited to do so and provided with an appointment time and date. During such in person appointments or meetings we may require the presence of at least two persons to act as a witness and note taker.
 - Banning the complainant from making contact by telephone calls to the Office except through a third party e.g. a solicitor.
 - Letting the complainant know that Bembridge 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).
- g. 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
 - offer the right to reply
- h. Where the behaviour is so extreme or it threatens the immediate safety of, and welfare of staff/member, the matter will be reported to the Police and / or legal action will be taken. In such cases, the complainant may not be given prior warning of that action.

6. New complaints from complainants designated as abusive, vexatious, or persistent

- a. New complaints from people who have come under this policy will be treated on their own merits.
- b. The Clerk and the Chair of the Council and Chair of the Staffing Committee 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.
- c. 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.

7. Review

- a. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Clerk and the Chair of the Council and the Chair of the Staffing Committee after three months, and then reviewed quarterly.
- b. The complainant will be informed of the result of this review if the decision to apply this policy has been changed or extended.

8. Record Keeping

- a. The Clerk will retain adequate records of the details of the case and the action that has been taken.
- b. A log will be kept on file in the office and will contain the following:
 - The name and address (or email address) of each member of the public who is deemed as persistent, abusive, or vexatious, when the restriction came into force and when it ends.
 - What the restrictions are and when they came into place
 - When the person and Council were advised
 - A template will be completed for each and every instance indicating action taken (if any)
 - Full council will be provided with a regular report giving information about members of public who have been treated as vexatious/persistent complainants as per this policy and the IOW Cllr for Bembridge will be kept informed.
- c. A report will be presented at the Annual Full Council Meeting excluding the Press and Public, giving information about members of the public who have been sanctioned in relation to this Policy.