

# **Ennerdale & Kinniside Parish Council Policy on Vexatious Requests: With reference to Section 14 of the FOI Act 2000 and the Data Protection Act 2018**

## **1. Introduction**

This policy identifies situations where requests, made by one individual or as part of a group, might be considered to be habitual or vexatious. The following clauses form the Parish Council's policy for ways of responding to these situations.

- 1.1. 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, or purely to cause annoyance to the defendant'.
- 1.2. This policy intends to assist in identifying and managing requests which seek to be disruptive to the 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 2018 incorporating (GDPR) and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.
- 1.4. Habitual or vexatious complaints can be a problem for the Council. The difficulty in handling such complaints is that they are time consuming and wasteful of resources in terms of Officer and Council time. While the Council endeavours to respond with patience and sympathy to the needs of all complaints 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 a request being regarded as a vexatious. Similarly, the fact that a requestor is unhappy with the outcome of a complaint and seeks to challenge it, 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 complaints in ways which are demonstrably consistent, fair and reasonable.

## **2. Habitual or Vexatious Requests**

- 2.1 For the purpose of this policy the following definitions of habitual or vexatious requests/complaints will be used: The repeated and/or obsessive pursuit of:
  - a. unreasonable complaints and/or unrealistic outcomes; and/or
  - b. Reasonable complaints in an unreasonable manner.
- 2.2 Where requestors continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the Full Council will seek agreement to treat the requests as a habitual or vexatious for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious requests/complaints.
- 2.3 The Clerk, on behalf of the Parish Council will notify the requestor, in writing, of the reasons why their complaint/request has been treated as habitual or vexatious and the action that will be taken. Cumberland Council will also be informed that the Parish Council has been subject to vexatious complaints/requests.

2.4 The status of the requests will be kept under review. If a requestor subsequently demonstrates a more reasonable approach, the vexatious status will be reviewed.

### 3. **Definitions**

3.1 Ennerdale & Kinniside Parish Council defines unreasonably persistent and vexatious complaints because the frequency or nature to the Council hinders the Council's ability to carry out their other Parish duties. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly.

3.2 Examples include the way in which, or frequency with which, complaints are brought to the attention of the Council or how the Council's response is received when requests/complaints are considered vexatious.

3.3 Features of unreasonably persistent and/or vexatious complaints include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the requestor will be considered as being in this category):

Unreasonably persistent and/or vexatious complaints/requests may:

- Have insufficient or no grounds and be making the complaint, only to annoy
- 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 individual employee or elected member of the Council 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(s) or requests(s).
- Make persistent and unreasonable demands or expectations of the Council and/or the complaints process after the unreasonableness has been explained (an example of this could be when there is an insistence on immediate responses to questions, frequent and/or complex letters, faxes telephone calls or emails).
- Harass or verbally abuse or otherwise seek to intimidate employees or elected members of the Council 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.
- 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 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 'scatter-gun' 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.
- 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.
- Combine some or all of these features.

#### 4. **Imposing Restrictions**

- 4.1 The Parish Council will ensure that the request/complaint is being, or has been, investigated.
- 4.2 In the first instance the Clerk will consult with the Chair and Vice-Chair of the Council. If they are in agreement that the behaviour meets the definitions of this policy, the Clerk will notify the requestor that their communications are being referred to the Council at the next meeting.
- 4.3 The matter will be considered by the Council confidentially prior to issuing a warning. The Clerk will make contact by post, 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.
- 4.4 If the disruptive behaviour continues, the Clerk will issue a letter notifying them that the way in which to contact the Parish Council in future may now be restricted. The Clerk will issue this letter in consultation with the Chair and Vice-Chair of the Council.
- 4.5 This will be referred to the Council for agreement and a decision as to what procedures to put in place and for what period. The Clerk will advise the requestor of the decision and procedures that were agreed by the Council.
- 4.6 Any restriction that is imposed on contact with the Council will be appropriate and proportionate and the requestor will be advised of the period of time over which that 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 Council Meeting.
- 4.7 Restrictions will be tailored to deal with the individual circumstances of the request and may include:
  - a. 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.

- b. Advising the Council will not accept contact by telephone except through a third party e.g. A solicitor, a Councillor or a friend acting on their behalf.
  - c. Advising only correspondence by postal letter to an address provided.
  - d. Requiring contact to take place with one named member of staff only.
  - e. Advising that the Parish Council will not respond to or acknowledge any further requests on the same subject matter.
- 4.8 When the decision has been taken to apply this policy, the Clerk will contact the requestor(s) in writing to explain:
- Why the decision has been taken.
  - What action has been taken.
  - The duration of that action.
- 4.9 The Clerk will issue a Section 14 notification and enclose a copy of this policy in the letter to the complainant.
- 4.10 Where requests continue in a way which is vexatious, the Clerk, in consultation with the Chair and Vice-Chair of the Council and the Council as a whole, may decide to refuse all contact with the complainant and issue a Section 17.6.c and stop any investigation into the request.
- 4.11 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, prior warning of that action may not be given.
- 4.12 If the same request made in writing and/or has also been made verbally and has been answered in full and recorded in the minutes, then the requestor is advised of this and is referred to the minute reference (public participation item). If the same request has been submitted to an external body, the requested evidence supplied, and the case closed, then section 21 exemption could apply.
5. **New requests which are abusive, vexatious or persistent under Section 14(1)**
- 5.1 New requests from people who have come under this policy will be treated on their merits. The Clerk, the Chair and Vice-Chair of the Parish Council will jointly make a recommendation to the Council, which 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 request is judged to be unreasonably persistent or vexatious, and any restrictions imposed on Council's contact will be recorded and the Council notified as a whole.
6. **Review**
- 6.1 The situation judged to be unreasonably persistent or vexatious will be reviewed by the Clerk, the Chair and Vice-Chair of the Council and the Council as a whole 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 Council Meeting after the expiry of the three-month period.
- 6.2 The requestor 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:

- The abusive, vexatious or persistent requests and complaints
- When the restrictions came into force and ends
- What the restrictions are
- When the person and Council were advised

7.2 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.

There is a right to appeal to the Council's decision to refuse requests for information to the ICO.

Approved and agreed by Council 16<sup>th</sup> January 2024. Minute 1004/01/24

Links to FOI Act Sections 14 and 17

<http://www.legislation.gov.uk/ukpga/2000/36/section/14>

<http://www.legislation.gov.uk/ukpga/2000/36/section/17>