



KIPPAX PARISH COUNCIL VEXATIOUS POLICY

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Signed by Chair, Councillor Martin Eyre

This policy sets out Kippax Parish Council's stance on vexatious or abusive complaints, demands and/or repeated requests for information including Freedom of Information requests and how they will be dealt with.

Vexatious or Abusive Complaints/Freedom of Information Requests

Most complainants or people making Freedom of Information requests behave in legitimate ways. A very small minority make complaints/requests that are vexatious, in that they persist unreasonably with their complaints/requests, or make complaints/requests in order to make life difficult for the Council rather than genuinely to resolve a grievance.

The Council recognises that it is important to distinguish between people who make a number of complaints/requests because they genuinely believe things have gone wrong, and people who are seeking to subvert the legitimate business of the council. It is acknowledged that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of each case rather than the way in which they are expressed.

It is not necessary to meet a person's unreasonable demands, or to answer every single point in an unreasonable letter. Judgement will be required to separate a person's legitimate queries from those that are unreasonable, often within the same complaint. Skill will be required to respond tactfully and sympathetically. If the person's persistence adversely affects the Council's ability to do its work and provide a service to others, the Parish Council need to address such behaviour.

Where the Clerk is of the view that complaints, requests or persons could be identified as vexatious (in accordance with the criteria set out in Appendix 1), the Clerk will refer the matter to council for a decision and their determination of what action to take. The Clerk will implement such action and will notify the complainant that their complaint/request is considered as vexatious and what action will be taken. This notification will be copied to all Councillors and a record kept of the reasons why a complaint/request has been classified as vexatious.

The Council may deal with vexatious complaints/requests in one or more of the following ways:

- ❖ In a letter, setting out a code of commitment and responsibilities for the parties involved if the Parish Council is to continue processing the

complaint/request. If these terms are contravened, consideration will then be given to implementing other action as indicated below.

- ❖ Decline contact with the complainant, either in person, by telephone, fax, email or any combination of these, provided that one form of contact is maintained which will usually be by conventional post (letter).
- ❖ Notify the complainant/requestor in writing that the Council has responded to the points raised and tried to resolve the complaint/request but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant/requestor will also be notified that the correspondence is at an end and the Council does not intend to engage in further correspondence dealing with the complaint/request.
- ❖ Inform the complainant/requestor that the Council intends to seek legal advice on unreasonable or vexatious complaints/requests and behaviour.
- ❖ Temporarily suspend all contact with the complainant/requestor in connection with the issues relating to the complaint/request being considered.

Restricting Contact

Any restrictions will be appropriate and proportionate to the nature of the person's contacts with the Council at the time such as:

- ❖ Placing time limits on telephone conversations and personal contacts;
- ❖ Limiting the person to one form of contact (letter);
- ❖ Requiring the person to communicate only with one named employee/member.
- ❖ If a complaint is currently going through the Council's complaints procedure, asking the complainant to enter into a written agreement about their future conduct if the complaint is to be progressed;
- ❖ Closing the investigation into a complaint;
- ❖ Refusing to register and process further complaints/requests providing the person with acknowledgements only;
- ❖ Banning a person from the Council's premises;
- ❖ Involving the police where the person is believed to have committed a criminal offence (harassment, assault or criminal damage), where assault is threatened, or the complainant refuses to leave council premises.

The Clerk will inform the complainant/requestor in writing why a decision has been made to restrict or stop future contact, the contact arrangements and the length of time that these restrictions will be in place.

There should never be a blanket ban for an unspecified period of time unless the Council is legally required to do so following a police investigation. The Council should always try to maintain one form of contact which will normally be by way of conventional post (letter). In extreme situations the Council will tell the complainant in writing that they must restrict contact to communication through a nominated advocate known and declared to be acting on their behalf.

In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other residents, Council employees, councillors and co-opted members do not suffer any disadvantage or undue stress and the resources of the Council are used as effectively as possible.

Threatening and Abusive People and Harassment

We do not expect staff or members to tolerate unacceptable behaviour by people which causes or may cause undue stress. The Council believes that harassment is totally unacceptable. The Council will work to prevent any form of harassment from happening in the first instance and where it has already occurred, will work to prevent it from happening again.

Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may also include actions characterised as offensive, intimidating, malicious, insulting or humiliating that attempts to undermine or injure an individual or group of individuals.

Where there is abusive or aggressive behaviour which produces damaging or hurtful effects, physically or emotionally, on the staff or members which includes, but not exclusively, verbal abuse (including name calling), bullying, shouting or swearing or threat of any of these behaviours the staff or members affected should step away from the situation and the person asked to leave the premises where appropriate.

This can mean terminating a conversation whether it is face to face or by telephone, advising that the conversation is being terminated, and in the case of such behaviour in a face-to-face contact in the office or public meeting the person should be asked to leave the premises.

All such incidences must be documented. This will, in itself, cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be continued through written communication by post.

Any complainant/requestor who threatens or uses physical violence towards staff or members will receive written confirmation that they are being treated as a vexatious complainant/requestor and informed of the action that will be taken.

Legal References

Under the Freedom of Information Act 2000 Section 14(1), public authorities do not have to comply with vexatious requests. The Council also has a legal duty under the Health and Safety at Work etc. Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare at work of its employees and members.

APPENDIX 1

Some of the indicators to be used by the Council to identify whether a complaint or request for information is vexatious:

Abusive or aggressive language

The tone or language of the requester's correspondence goes beyond the level of criticism that a public authority or its employees should reasonably expect to receive.

Burden on the authority

The effort required to meet the request will be so grossly oppressive in terms of the strain on time and resources, that the authority cannot reasonably be expected to comply, no matter how legitimate the subject matter or valid the intentions of the requester.

Personal grudges

For whatever reason, the requester is targeting their correspondence towards a particular employee or office holder against whom they have some personal enmity.

Unreasonable persistence

The requester is attempting to reopen an issue which has already been comprehensively addressed by the public authority, or otherwise subjected to some form of independent scrutiny.

Unfounded accusations

The request makes completely unsubstantiated accusations against the public authority or specific employees.

Intransigence

The requester takes an unreasonably entrenched position, rejecting attempts to assist and advise out of hand and shows no willingness to engage with the authority.

Frequent or overlapping requests

The requester submits frequent correspondence about the same issue or sends in new requests before the public authority has had an opportunity to address their earlier enquiries.

Deliberate intention to cause annoyance

The requester has explicitly stated that it is their intention to cause disruption to the public authority, or is a member of a campaign group whose stated aim is to disrupt the authority.

Scattergun approach

The request appears to be part of a completely random approach, lacks any clear focus, or seems to have been solely designed for the purpose of 'fishing' for information without any idea of what might be revealed.

Disproportionate effort

The matter being pursued by the requester is relatively trivial and the authority would have to expend a disproportionate amount of resources in order to meet their request.

No obvious intent to obtain information

The requester is abusing their rights of access to information by using the legislation as a means to vent their anger at a particular decision, or to harass and annoy the authority, for example, by requesting information which the authority knows them to possess already.

Futile requests

The issue at hand individually affects the requester and has already been conclusively resolved by the authority or subjected to some form of independent investigation.

Frivolous requests

The subject matter is inane or extremely trivial and the request appears to lack any serious purpose. The request is made for the sole purpose of amusement.

Definition of a Vexatious Complainant/Requestor

This definition applies equally to someone making a complaint and to someone making a request for information.

- * Are repeatedly unwilling to accept 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.
- * Repeatedly do not clearly identify the precise issues which they wish to raise despite reasonable efforts of the Council to address their concerns, and/or where the concerns identified are not within the remit of the Council.
- * Have threatened or used physical violence towards staff or members at any time.
- * Have harassed or been personally abusive or verbally aggressive towards staff or members dealing with the complaint/grievance. The Council recognise, however, that complainants may sometimes act out of character in times of stress, anxiety or distress and should make reasonable allowances for this. All instances of harassment, abusive or verbally aggressive behaviour will be documented.
- * Have harassed or been personally abusive or verbally aggressive towards any Members of the Council (Councillors) or co-opted members whether this has been on a face-to-face contact or at public meetings.
- * Are known to have recorded meetings or conversations without the prior knowledge and consent of other parties involved and/or have impersonated any member of staff or Councillors with the objective of soliciting information for whatever purpose.
- * Seeking to coerce, intimidate or threaten staff, Councillors or other people involved, whether by use of language, tone of voice or behaviour including body language.