

# **MARSTON PARISH COUNCIL**

## **POLICY FOR DEALING WITH UNREASONABLY PERSISTENT COMPLAINTS AND CUSTOMER BEHAVIOUR AND VEXATIOUS REQUESTS**

### **1. Introduction**

This policy sets out our approach to the relatively few residents or customers whose actions or behaviour we consider to be unacceptable. We aim to deal fairly, honestly, consistently and appropriately with all complainants and requests for information but we retain the right to restrict or change access to our services where we consider a customer's actions to be unacceptable. Our aim in doing this is to ensure that other customers and our staff do not suffer any disadvantage from customers who act in an unacceptable manner.

This policy is consistent with anyone's rights under the Data Protection Act 1998, Freedom of Information Act 2000 and Environmental Information Regulations.

### **2. Purpose**

The purpose of the document is to

- Define unreasonable customer behaviour.
- Explain what we consider to be unreasonable customer behaviour and how we will deal with it
- Define vexatious requests.

Explain what we consider to be a vexatious request and how we will deal with these.

This policy helps Councillors, staff and partners to understand what options for action are available, and who can authorise these actions. It also assists staff to manage the expectations and behaviour of complainants while their complaint is addressed and when we can refuse a request for information.

The objectives of the policy are to:

- Ensure that the objectives and requirements of this Policy are understood.
- Promote problem solving and avoid apportioning blame. The emphasis should be on finding a solution.
- Satisfy those who complain or comment that they have been dealt with promptly, fairly, openly and honestly.
- Resolve complaints quickly and as close to the point of service delivery as acceptable and appropriate. Protect members, staff and partners from abusive and unacceptable behaviour from residents / customers, protect members, whilst also protecting members

staff and partners from unreasonable, aggressive or violent behaviour by customers or residents.

- Ensure staff and customers understand how we can deal with vexatious requests for information.

This policy should be read in conjunction with any other relevant Parish Council policies relating to exclusion of services and employee health and safety. This policy applies to all forms of communication, including social media.

The Parish Council welcomes feedback from service users and will always try to resolve any complaint or request for information as quickly as possible and therefore this policy should only be applied where absolutely necessary.

With each complaint we must consider whether it is persistent, unreasonably persistent or a new complaint. With each request for information, we must consider whether it is manifestly unjustified, inappropriate or improper use of formal procedure.

This policy covers behaviour associated with resident complaints, complaints about the standards of our elected members, requests for information and general resident contact.

We always need to differentiate between those residents whose concerns relate to a potential service failure and those residents whose behaviour is unreasonable.

Residents can be frustrated and aggrieved and it is therefore important to consider the substance of the complaint. However, sometimes residents pursuing complaints or other issues treat members / Councillors, staff and our partners in a way that is unacceptable.

Whilst some complaints may relate to serious and distressing incidents, the Council does not tolerate abusive, offensive or threatening behaviour and must take steps to protect staff and Councillors / members who are subject to unreasonable behaviour.

## **UNREASONABLY PERSISTENT COMPLAINTS AND RESIDENT BEHAVIOUR**

### **3. Definition of unreasonable behaviour**

Residents may act out of character when under stress and we do not view behaviour as unacceptable just because a customer is forceful or determined. However, the actions of customers / Residents who are angry, demanding or persistent may result in unreasonable demands on workloads and behaviour towards the staff.

Behaviour can be unreasonable and can become unreasonably persistent. Unreasonable behaviour may include one or two isolated incidents. Unreasonably persistent behaviour is usually an accumulation of incidents or behaviour over a longer period. We differentiate between 'persistent' customers and 'unreasonably persistent' customers / residents.

Residents or Customers making a complaint can be 'persistent' where they feel we have not dealt with their complaint properly and are not prepared to leave the matter there. For example, it is not unreasonable for a customer to criticise how their complaint is being handled when our processes are not followed.

However, some Residents / Customers may have justified complaints or requests but may pursue them in inappropriate ways such as lengthy phone calls, emails expecting immediate responses, detailed letters or emails every few days. Others may pursue complaints or requests which have no substance, or which have already been considered and dealt with. Their contacts with us may be amicable but still place very heavy demands on staff.

These are some of the actions and behaviours of unreasonably persistent Residents / Customers which Parish Council's often find problematic. It is by no means meant to be an exhaustive list.

- Refusing to specify the grounds of a complaint, despite offers of assistance.
- Refusing to co-operate with the complaint's investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints process.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints process or within good practice.
- Making unjustified complaints about the staff dealing with the complaints and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements they have made at an earlier stage.
- Introducing new information, at a late stage, which the Resident expects to be taken into account and commented on, or raising large numbers of detailed, but unimportant, questions and insisting they are all fully answered.
- Covertly recording meetings and conversations, breaching GDPR and Privacy notices
- Submitting falsified documents from themselves or others
- Bringing complaints designed to cause disruption or annoyance or lacking any serious purpose or value to proceedings.
- Adopting a 'scattergun' approach: pursuing parallel complaints on the same issue with a variety of organisations. An example might be:- Marston Parish Council, Hougham Parish Council, SKDC, District or County Councils all at the same time.
- Making excessive demands on the time and resources of staff and members with lengthy and/or repeated telephone calls, emails to numerous Council officers, or detailed letters every few days and expecting immediate responses.
- Causing distress to staff – including use of hostile, abusive or offensive language or an unreasonable fixation on an individual member of staff
- Submitting repeat complaints, with minor additions/variations, and insisting that these are now 'new' complaints

- Refusing to accept the outcome decision of a complaint – repeatedly arguing the point and complaining about the decision, with no new evidence.
- Insisting on pursuing unjustified complaints and/or unrealistic outcomes to legitimate complaints. Taking actions that are out of proportion to the nature of the complaint, even when the complaints process has been exhausted.
- Behaviour which has a significant and disproportionate adverse effect on the Council's resources and time and other residents
- Inappropriate behaviour towards Council staff investigating or involved in the complaint such as inappropriate use of language, aggression or violence.
- Persistently approaching the Council through different routes about the same issue.
- Persistently complaining about elected Councillors without grounds for complaint
- Care must be taken not to discard new issues which are significantly different from the original issues, however these should be treated as a separate complaint issue.

#### **4. Designating behaviour as unreasonable**

It is vital that all attempts are made to maintain effective communication and relationships with Residents. Prior to taking action under this policy, the investigating officer should ensure that:

- Every reasonable effort has been made to investigate the complaint.
- Every reasonable effort has been made to communicate with the Resident.
- The Resident is not now providing any significant new information that might affect the Council's view of the complaint

##### **a) Prior warning**

When the Parish Council considers that the customer or resident is unreasonably persistent in pursuing complaints or otherwise is acting unreasonably, a risk assessment can be completed in line with health and safety policies and, if it is concluded that the behaviour is unacceptable/unreasonable, the Clerk will write to tell the Resident why they find the Resident's behaviour unreasonable and/or unacceptable and ask them to change the behaviour.

##### **b) Decision to restrict or terminate contact with the Parish Council**

If unreasonable behaviour continues, the Chair & Councillors will review the case and instruct the Clerk accordingly, the Clerk will check the Council are acting in within their Standing Orders and Nolan Principles and will collate the action. When making decisions on how to manage the unreasonably persistent Resident or Customer or unreasonable behaviour of a complainant, all relevant factors should be taken into account to ensure that action taken is appropriate and proportionate to the nature and frequency of the Resident's contacts with the Council at that time.

Due consideration should be given to the Resident's health, including any related illnesses or disabilities that may be impacting on behaviour (for example, dementia, learning disability, mental illnesses etc.).

If the Resident / Customer has not responded appropriately to the prior warning letter a decision may be made to restrict contact with the Council. The Resident will be notified in writing (or alternative formats appropriate to the individual) why it is believed their behaviour falls into the category of unreasonably persistent and/or unreasonable behaviour.

The Resident / Customer will be notified what action will be taken and the duration of that action, as well as what the Resident / Customer can do to have the decision reviewed.

The following is a list of possible options for managing a Resident / Customer's involvement with the Council from which one or more might be chosen and applied, if warranted. Any action taken should be appropriate and proportionate. It is not an exhaustive list and often the specific circumstances of the individual case will be relevant in deciding what might be appropriate action:

- Placing limits on the number and duration of contacts with the Parish Council per week or month
- Offering a restricted timeslot for necessary calls
- Limiting the Resident / Customer to one medium of contact (telephone, letter, email etc.)
- Requiring the Resident / Customer to communicate only with one named member of staff.
- Requiring any personal contact to take place in the presence of a witness and in a suitable location.
- Refuse to register further complaints about the same matter.
- Where a behaviour is unreasonable and threatens the safety and/or welfare of Councillor's, staff, or our partners the Council may decide to terminate contact with the Resident / Customer
- Other action may be taken, for example reporting the matter to the police or taking legal action. Where such action is necessary the Council does not need to give prior warning

## **5. Decision**

Where a decision on the complaint has been made, the Complainant can be informed that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. A designated officer who will read future correspondence should be identified. Where following restriction of access being implemented the Resident / Customer continues to behave in a way that is unacceptable or where the behaviour is so extreme that it threatens the immediate safety and welfare of members, staff or our partners, the Council may:

1. Terminate contact
2. Temporarily or permanently restrict/not allow access to the Council or the team
3. Report the matter to the police
4. Take legal action

When imposing a restriction on access there will be a specified review date, usually 6 months, from the initial decision. The review will be carried out by the Chair and Council with input from the Clerk. Restrictions should be lifted, and the relationship returned to normal unless there are good grounds to extend the restrictions.

The Resident / Customer will be informed of the outcome of the review. If the restrictions are to continue, the complainant should be given the reasons and told when the restrictions will next be reviewed.

Referral to the Local Government and Social Care Ombudsman maybe an option

Relationships between organisations and Residents / Customers sometimes break down badly when complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there may be nothing to gain from following through all stages of the Council's Complaints procedure. In these circumstances, the Ombudsman may, exceptionally, be prepared to consider complaints before complaints procedures have been exhausted – if the request is made by both sides to the dispute.

A Resident / Customer who has been cited as behaving unreasonably may make a complaint to the Ombudsman about it. The Ombudsman is unlikely to be critical of the Council's action if it can show that it acted proportionately, reasonably and in accordance with its adopted policy.

#### **Appeals against decisions.**

Residents / Customers must be informed in writing when the Council wishes to apply this policy and given information on how to appeal the decision.

The appeal will be heard by a designated Councillor who has not previously been involved with the case.

The Clerk will write to the customer with the Council's decision which will be final.

A Resident / Customer who is dealt with under this policy will be informed of their right to contact the Local Association Local Councils (LALC) or Social Care Ombudsman if they feel the Council has not acted correctly in the administration of the complaint.

## **New complaints**

New complaints from Residents / Customers who have been subject to this policy will be dealt with on their merits. It is recognised that any new complaint may represent a genuine service failure and therefore needs to be reviewed objectively regardless of who is bringing the complaints.

Once the complaint has been considered, a risk assessment can also be carried out based on past and current knowledge of the customer's behaviour and the likelihood of re-occurrence of any unacceptable behaviour.

Any decision not to pursue a new complaint must be clearly recorded on the complaints database.

## **Recording actions and contacts with the Resident / Customer**

Any decision to apply this policy must be notified to the Clerk of the Council and recorded on the Council's complaints file. A report on the number of Residents / Customers who are the subject of action under this policy will be reported and reviewed where appropriate.

The Clerk will keep adequate records to show:

When a decision is taken not to apply the policy when a member, member of staff or partner asks for this to be done.

The relevant individual will be informed of the decision.

When a decision is taken to make an exception to the policy.

When a decision is taken not to put a further complaint from such a customer through the complaints procedure for any reason

When a decision is taken not to respond to further correspondence, the Clerk will make sure that any further letters, calls or emails from the customer are checked to ensure that any significant new information is picked up and addressed

Any future contacts with the customer must be recorded.

## **6. Confidentiality**

Complaints made to the Council will be treated in confidence.

The Clerk will arrange that the details of unreasonably persistent complainants and/ or unreasonable Resident / Customer behaviour is only passed to those Councillors and organisations who need to know in order to implement the policy or to protect staff safety. The customer's details will also be recorded on the database.

Confidentiality cannot, however, be guaranteed where a vulnerable person is considered to be at risk and safeguarding procedures apply. In these circumstances, the Council may have to share the information with other departments within the Council or other external agencies.

Customers or Residents who make their complaints public in the media may forfeit their right to anonymity and the right to confidentiality.

## **7. Section 2 – VEXATIOUS REQUESTS**

Definition of Vexatious Behaviour

**A vexatious request is: ‘a request that is likely to cause distress, disruption, and irritation without any proper or justified cause’.**

A vexatious request may include one or two individual requests for information or may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute or it is the latest in a lengthy series of overlapping requests.

**Examples of vexatious requests are:**

- Abusive or aggressive language used by the requester.
- Excessive burden is placed on us in dealing with the request.
- Targeted correspondence towards one individual against whom they have some personal vendetta.
- Unreasonable persistent requests relating to matters which have already been dealt with
- The request makes completely unsubstantiated accusations against the authority or specific individuals.
- The requester takes an unreasonably entrenched position, rejecting attempts to assist and advice out of hand and shows no willingness to engage with us.
- The requester makes frequent or overlapping requests.
- The requester’s intention and purpose is to deliberately to cause annoyance.
- The requester has adopted a “scattergun” approach.
- The request relates to a trivial matter and it is not proportionate to deal with the request.
- The requester is abusing their rights of access to information by abusing the legislation to vent anger or harass and annoy Councillors, staff or partners.
- The information requested affects the individual and has already been resolved by us or by independent investigation.
- The request is made for the sole purpose of the amusement of the requester.



Designation of vexatious and decision to refuse to provide requested information in some cases it will be obvious to the Council that a request is vexatious, for instance the tone or content of the request is so objectionable that it would be unreasonable to expect the Council to tolerate it. In these circumstances we will consider making a decision that we will refuse the request under Section 14(1) Freedom of Information Act 2000 (or under the Environmental Information Regulations where relevant).

In other cases, it will not be so obvious then we will take into account if the request is likely to cause a disproportionate or unjustified level of disruption, irritation or distress. To assess this we will objectively judge the evidence of the impact on us and weigh this against any evidence about the purpose and value of the request.

However, we will not automatically refuse a request simply because it is made in the context of a dispute or if it forms part of a series of requests.

We will consider each request for information on its own merits, and we will not automatically refuse a request because the individual may have caused problems in the past. We will ensure that we consider whether the request (and not the requester) is vexatious.

## **8. Considerations**

We will consider whether or not a more conciliatory approach will help before issuing a refusal notice.

Where the request is considered to be vexatious we may make the decision not to provide the information. We will issue a refusal notice to the requester.

The decision to classify a request as vexatious and to refuse the request will be taken by the Chair and Council in consultation with the Clerk.

A refusal notice setting out why the Council is refusing the request will be issued by the Clerk unless we have already given the requester a refusal notice for a previous vexatious request, and it would be unreasonable to issue another one.

## **9. Application for Review**

A requester may request a review of the decision to classify a request as vexatious and to issue a refusal notice. Such review will be carried out by a Councillor who has not previously been involved in the matter.

A requester who has been dealt with under this policy will be informed of their right to contact the Information Commissioner if they feel the Council has not acted correctly in dealing with their request.

## **10. Recording Actions**

Any decisions to apply this policy to the request must be notified to the Chair of the Parish Council and recorded on the Council's information file. A report on the number of customers

## **11. Responsibility for the procedures**

Overall responsibility for the Policy for Dealing with **UNREASONABLY PERSISTENT COMPLAINTS AND CUSTOMER BEHAVIOUR AND VEXATIOUS REQUESTS** will lie with the Parish Council and the Councillors at that time.

The administration of the Policy for Dealing with Unrealistic and continuous requests will be dealt with by the Parish Clerk at that time.

Policy 1.1 – Vexatious Policy – Altered and updated for Parish Council use by Clerk to the Marston Parish Council, Marc Whelan 2024. Proposed for adoption at September 5<sup>th</sup> Council Meeting 2024