



OTTERY ST MARY TOWN COUNCIL POLICY FOR DEALING WITH HABITUAL OR VEXATIOUS COMPLAINANTS

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Introduction

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 or vexatious' and ways of responding to these situations.

Definitions

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': in the Ottery St Mary Town Council ('the Council') context, it means acting to cause annoyance to the Council.

Definition of a habitual or vexatious complainant

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 one of the following criteria, where complainants:

1. Persist in pursuing a complaint where the Council's Complaints Procedure 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 upon receipt of a response 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 as separate complaints).
3. Are repeatedly unwilling to accept documentary 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 reasonable efforts of the Council 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 a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a trivial matter can be subjective and careful judgement will be used in applying this criteria.

6. Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on staff or members. For the purposes of determining an excessive number, a contact may be in person, by telephone, letter, e-mail or fax. Discretion will be used in determining the precise number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.

7. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff or members dealing with the complaint. These will be documented.

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

9. Make unreasonable demands on the customer/Council relationships 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.

Procedures for dealing with habitual or vexatious complainants

If a complainant has threatened or used physical violence towards staff or members at anytime – this will in itself, cause personal contact with the complainant, and /or their representatives to be discontinued and the complaint will, thereafter, only be continued through written communication. All such instances will be documented.

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

1. The complainant will be notified in writing why their complaint has been classified as vexatious. The complainant will be advised of the Council's normal complaints procedure and what steps to follow if that is appropriate.

2. The complainant will be notified, in writing, that 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. The complainant will also be notified that the correspondence is 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 dealing with the complaint.

3. 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.

4. The complainant will be informed that the Council *see below* may* seek legal advice on unreasonable or vexatious complaints.

5. The Council will suspend all contact with the complainant in connection with the issues relating to the complaint being considered habitual and/or vexatious, while seeking advice or guidance from a solicitor or other relevant agency, such as the Local Government ombudsman or External Auditor.

6. The Clerk and the Mayor of the Council will invite the complainant to meet with them to discuss the matter.

7. 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.

8. 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 review. There will be an opportunity, however, if they subsequently demonstrate a more reasonable approach or if they submit a further complaint for which the normal complaints procedure would appear appropriate, to have their status reviewed and normal channels of communication may be resumed.

Record Keeping

Adequate records will be retained by the Town Clerk of the details of the case and the action that has been taken. The Town Clerk will retain a record of:

- The name and address of each person who is treated as abusive, vexatious or persistent.
- When the restriction came into force and ends.
- What the restrictions are.
- When the complainant and staff were advised.
- The Town Clerk will provide an annual report giving information about customers who have been treated as vexatious/persistent as per this Policy to the Operations Committee.

** Should a complainant ignore the Vexatious Complaints Policy and/or use Social Media as a means of targeting councillors/employees), the Mayor, Deputy Mayor and the Clerk decide between themselves whether or not to seek legal advice and, if appropriate, to instruct a solicitor to send the complainant a letter advising them of the courses of action available to the Council.*