



# PORTISHEAD TOWN COUNCIL POLICY FOR STAFF PROTECTION

## A policy for dealing with abusive, persistent or vexatious requests and complaints

### 1. Introduction

- 1.1 This policy identifies situations where a person making a request, either individually or as part of a group, or a group of requesters, might be considered to be habitual or vexatious. The following clauses form the Town Council's policy for ways of responding to these situations.
- 1.2 Indicators that requests or complaints [which can be verbal (written or spoken), in person, by telephone or via information technology] are vexatious if:
  - a. they include abusive or aggressive language.
  - b. requesters can be said to bear a personal grudge or make completely unsubstantiated accusations against the staff.
  - c. requests from individuals are unreasonably persistent, frequent or overlapping.
  - d. the effort required to meet the request will be so grossly oppressive on time and resources, that the Town Council staff cannot reasonably be expected to comply, no matter how legitimate the matter or valid intentions of the requester.
- 1.3 The term 'request' in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998, and any subsequent modification of this legislation.
- 1.4 Habitual or vexatious requests can be a problem for Council staff. The difficulty in handling such requests is that they are time consuming and wasteful of resources in terms of Officer time. While Town Council endeavours to respond with patience and sympathy to the needs of all requesters 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 The aim of this policy is to contribute to the overall aim of dealing with all requests in ways which are demonstrably consistent, fair and reasonable.

### 2. Procedure under this policy

- 2.1 Before considering its implementation the Clerk on behalf of the Town Council will send a letter plus a copy of this policy to the requester to give them prior notification.
- 2.2 The Town Council will ensure that any request is being, or has been, addressed properly.
- 2.3 The Clerk will consult with the Chairman of the Council prior to implementing this policy. The Clerk will contact the requester in writing (sent by signed for delivery), provide them with a copy of the Protection for Staff Policy, explain why this behaviour is causing concern and ask them to change this behaviour.

- 2.4 If the disruptive behaviour continues, the Clerk will issue a further letter, (sent by signed for delivery) to the requester advising them of the way in which they will be allowed to contact the Town Council in future will be restricted. The Clerk will make this decision in consultation with 3 members of the Staffing & Finance Committee and inform the requester in writing of what procedures have been put in place and for what period. The letter will state:
- a) why the decision has been taken.
  - b) what action has been taken.
  - c) the duration of that action.
  - d) how they can appeal against the decision.
- 2.5 Any restriction that is imposed on the requester's contact with the Town Council will be appropriate and proportionate and the requester will be advised of the period of time over which the restriction will be in place. In most cases restrictions will apply for between 3 to 6 months, but in exceptional cases this may be extended. In all cases the restrictions would be reviewed on a quarterly basis as defined in 3.1.
- 2.6 Restrictions will be tailored to deal with the individual circumstances of the requester and may include, for example:
- a) exclusion from specified Council premises
  - b) banning the requester from sending emails to any Town Council staff and insisting they only correspond by postal letter; or
  - c) requiring contact to take place with one named member of staff only;
  - d) letting the requester know that the Town Council staff will not respond to or acknowledge any further contact from them on the specific topic of that request.
- 2.7 Where a requester continues to behave in a way that is unacceptable, the Clerk, in consultation with 3 members of the Staffing & Finance Committee, may decide to refuse all contact with the requester and stop any investigation into his or her request.
- 2.8 Where the behaviour is so extreme, or it threatens the immediate safety or welfare of staff, other options will be considered, e.g. calling the police or taking legal action. In such cases, the requester may not be given prior warning of that action.
- 2.9 New complaints from people who have come under this policy will be treated on their merits. The Clerk and 3 members of the Staffing & Finance 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 well founded.
- 2.10 The fact that a requester is judged to be unreasonably persistent or vexatious, and any restrictions imposed on Council's staff contact with him or her, will be recorded and notified confidentially to those who need to know within the Council and its staff.

### **3. Review**

- 3.1 The status of a requester judged to be unreasonably persistent or vexatious will be reviewed by the Clerk and 3 members of the Staffing & Finance Committee after 3 months and at the end of every subsequent 3 months within the period during which the policy is to apply.

- 3.2 The requester will be informed of the result of this review if the decision to apply this policy has been changed or extended.

#### **4. Record Keeping**

- 4.1 The Clerk will retain adequate records of case details and the action that has been taken. Records will be kept of:
- a) the name and address of each member of the public who is treated as abusive, vexatious or persistent.
  - b) when the restrictions came into force and will end
  - c) what the restrictions are
  - d) when the person was advised
  - e) which staff and councillors were informed confidentially and when.

#### **5. Appeals**

- 5.1 Appeals against the Council's decision can be made to the Council in writing within 5 working days of the receipt of the decision. The Appeals procedure will follow that for a stage 3 grievance appeal, where the Council may use the services of an independent arbitrator to oversee and assist with the process, (see Protocol for Hearings). Variations to this process are summarised in Appendix B.

#### **6. Definitions**

- 6.1 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 purely to cause annoyance to the defendant'
- 6.2 Portishead Town Council defines unreasonably persistent and vexatious requesters or complainants as those people 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 or complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular requester or complainant.
- 6.3 Examples include the way in which, or frequency with which requesters raise their issues and how requesters respond when informed of the Town Council's decision about the request. For examples see appendix 'A'.

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## Appendix A is for Guidance

**For example, an unreasonably persistent and/or vexatious requester may (this list is not exhaustive):**

- a. harass or verbally abuse or otherwise cause stress to staff dealing with their request, in relation to their request: by use of foul or inappropriate language; by the use of offensive and racist language; publish their requests in other forms of media; by an unreasonable fixation on an individual member of staff.
- b. refuse to accept that issues are not within the power of the Council to investigate, change or influence.
- c. make persistent and unreasonable demands or expectations of staff after the unreasonableness has been explained to the requester (an example of this could be a requester who insists on immediate responses to questions, frequent and/or complex letters, faxes telephone calls or e-mails).

## Appendix B

- i. The grounds for the appeal must be set out in the written notice of appeal and should be based on:
  - a) the severity of decision
  - b) the findings of the original panel on a point of fact which is pertinent to the decision or new evidence which has come to light since the decision was made
  - c) a failure to adhere to the Vexatious Request/Complaints Policy
- ii. There is the right for the complainant to be represented at the hearing. Only in exceptional circumstances will a member of the complainant's family be an appropriate representative and this must be agreed in advance before the hearing takes place. The complainant must inform the Council whom they have chosen as a representative.
- iii. The representative may address the hearing, put and sum up the complainant's case, respond on behalf of the complainant to any views expressed at the meeting and confer with the complainant. The representative cannot answer questions on the complainant's behalf or address the hearing if the complainant does not wish to do so or prevent the complainant explaining his/her case.
- iv. The Appeal Hearing will normally be convened within 5 working days of the Council receiving the notice of appeal. If the date or time of the Appeal Hearing is inconvenient (for the complainant or representative) the complainant may ask to postpone the hearing by up to 5 working days.
- v. Any new evidence that the complainant wishes to put forward will be considered as well as any new evidence from the Council. All new evidence should be given in writing to the other side before the day of the meeting.
- vi. The order of statements and questions will be the same as for a stage 2 Grievance Hearing.
- vii. The Appeal Hearing may be adjourned to allow matters raised during the course of the meeting to be investigated or to allow the Appeal Panel time to consider its decision.
- viii. After the Appeal Hearing, the complainant will be informed of the Appeal Panel's decision in writing (by signed delivery) within 5 working days.