



**KELSALE-CUM-CARLTON
PARISH COUNCIL**

**PERSISTENT OR VEXATIOUS
COMPLAINTS**

POLICY AND PROCEDURES

INTRODUCTION:

Kelsale-cum-Carlton Parish Council recognises that it has a duty to deal with complaints about issues within its remit, in an equitable, efficient and effective manner. In doing so, the Parish Council must ensure that public money is spent wisely and achieves value for complainants and the wider public.

The Council will follow this policy if a complainant behaves in ways, which can:

- Impede the investigation of the complaint
- Have significant resource implications
- Inhibit the complaints service to others
- Be offensive, abusive or threatening.

AIMS OF THE POLICY:

- Not to prevent or deter complainants from pressing their concerns but to manage each case properly, consistently, fairly and respectfully.
- To ensure that the complaint, not the complainant is the issue during any procedure and decision making.
- The Council will seek to ensure that its actions are in accordance with its obligations under the Human Rights Act 1998 and the Convention Rights embodied within it in order to protect the human rights of persistent complainants, those dealing with the Council directly or indirectly and service users
- To establish guidelines for identifying unreasonably persistent complainants and/or vexatious complainants

These aims will be achieved through:

- Procedure
- Decision
- Action after decision
- Review

GUIDELINES:

Criticism, seeking information, confirmation or explanation during a complaints procedure should not be regarded as a complaint.

Care should be taken that an aggrieved complainant, who is unhappy with an outcome and challenges it on more than one occasion, should not be labelled unreasonably persistent or vexatious. The complainant must be assured that it is the persistency of complaint and its effects, **not** the complainant that is to be addressed.

The Parish Council and Clerk should try keeping open the lines of communication with appropriate support e.g. clarifying the reason for the outcome; relevant support for a complainant with special needs; suggesting an independent representative to help present his/her case.

Any action taken as a result of proven persistent and/or vexatious complaint should be proportionate to the degree of annoyance/aggravation caused.

It should be recognised that persistent complainants should not be considered to be unreasonably persistent or vexatious unless;

- Their complaints or grievances are pursued inappropriately
- They are seeking to cause unnecessary aggravation and annoyance to the Parish Council or Clerk.
- Their complaints or grievances hamper the provision of services by the Parish Council or Clerk.

FEATURES OF INAPPROPRIATENESS:

- Intent on pursuing complaints with no substance or which have already been investigated and settled.
- Refusal to specify grounds for complaint despite offers of assistance from the Parish Council or Clerk.
- Refusal to co-operate with the complaints investigation process whilst still wanting the complaint to be resolved.
- Not accepting that the issues are not within the remit of the complaints policy and procedure despite having appropriate information.
- Refusal to accept the limit of the Parish Council's powers and the conclusion of the complaints procedure.
- Insisting the complaint is dealt with in a way incompatible with procedures or good practice.
- Continuing to make frequent demands of the complaints procedure after the unreasonableness has been explained in writing
- Harassment or verbal abuse of councillors, their family and associates in relation to the complaint.
- Raising new issues after complaints procedure under way.
- Persistently raising the same issue through different routes.
- Changing the basis of the complaint without reasonable justification during the complaints procedure.
- Denying statements made at earlier stages of the complaints procedure.
- Refusal to accept documental evidence as fact.

PROCEDURE:

Where there is the possibility of an unreasonably persistent and/or vexatious complainant, the matter should be brought to the attention of the Chairman or Vice-Chairman who will review all relevant communications to ensure that the complaint has been dealt with according to the Parish Council's complaints procedure.

The Chairman or Vice Chairman will contact the complainant by whatever method is the most appropriate e.g either by letter or informal meeting in an effort to resolve the situation.

In the case of a meeting;

If there is a personality issue, the complainant may nominate another councillor who will be made aware of all the facts. A complainant may wish to bring a representative. The Parish Council will give appropriate support (e.g. special needs) to the complainant in choosing a representative etc.

The Chairman/Vice Chairman will:

- Listen to the grievances/complaints
- Assure the complainant of confidentiality with personal details.
- Carefully explain what action the Parish Council has taken within its remit to resolve the complaint.
- Offer any relevant support about the complaints procedure to the complainant
- Suggest complaint structures available if complaint is outside the Parish Councils remit
- Explain how the complainant's actions are of concern to the Parish Council
- Explain how his/her actions are hampering the complaints procedure
- Explain what actions the Council may take
- Seek an assurance that the persistent/unreasonable nature of complaint will be addressed

The outcome and relevant details of the meeting should be noted.

DECISION:

If the complainant continues to behave in unreasonable and/or vexatious way, the Chairman or Vice Chairman may seek the approval of the Parish Council to follow the policy and agree what action(s) to take.

The complainant will be advised by letter from the Parish Clerk of this action.

OPTIONS FOR ACTION:

- Request contact be in one particular form
- Request contact to be with one named person
- Request contact to be at one particular time
- Refusal to accept a form of contact e.g. blocking of e-mails etc.
- Request contact to be made in the presence of an appropriate witness
- Letting the complainant know that the Parish Council will not reply or acknowledge any further contact on a specific topic of that complaint

ACTION AFTER DECISION:

The Parish Clerk will write, to the complainant explaining;

- Why the decision was made
- What action the Parish Council will take
- The duration of the action
- The review process of this policy
- The rights the complainant has for appeal with copies of guidelines and forms for appeal e.g. Local government Ombudsman, The Standards Board
- The right of the individual to obtain independent professional/legal advice
- The Parish Council will record the decision and hold all relevant correspondence etc. except all personal details about the complaint and the complainant, which will be stored appropriately in line with Data Protection.
- The clerk will notify all parish councillors.

Care must be taken that the Chairman or Vice Chairman treats any new complaints from any person who has come under the policy on its merit.

REVIEW:

The status of an unreasonably persistent and/or vexatious complainant will be reviewed after 6 months. The complainant will be notified of the result if the decision to apply the policy has been reversed.