

NITON AND WHITWELL PARISH COUNCIL VEXATIOUS POLICY

Introduction

Niton and Whitwell Parish Council (the “PC”) is committed to treating the public with respect. Whilst the PC aims to provide good quality public services there are occasions when queries arise or things go wrong. Our complaints procedures are there to find out what went wrong and how to put things right for the future. As part of our service, the PC does not normally limit contact between the public and our staff.

The PC recognises that it has a legal duty to protect its employees from unacceptable behaviour. It believes its members and contractors (including sub-contractors) are also entitled to this protection. This policy identifies situations where a complainant, either individually or as part of a group, or group of complainants, might be considered to be 'unreasonably persistent' and/or 'vexatious', and proportionate ways of responding to these situations.

Scope

This policy should only be used after reasonable measures have been taken to resolve complaints using the PC's complaints processes.

Definition of an unreasonably persistent or vexatious complaint

Each case will be viewed individually and decided on its merits. A complainant (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent or vexatious if previous or current contact with them shows that their conduct satisfies or is analogous of the following indicative examples, dependent upon degree:

Where complainants pursue conduct:

- that seeks to go beyond the PC's complaints procedures, such procedures having been followed, implemented and exhausted;
- that could be considered to be unreasonable, harassing, threatening or otherwise abusive towards PC employees, councillors and contractors (including sub-contractors) (including the use of offensive language), or is such that it disrupts the normal working of the PC;
- where their complaint manifestly lacks sufficient grounds for success or focuses on a trivial matter to an extent which is out of proportion to its significance and continues to focus on the point;
- where their complaints change in substance or otherwise seeks to prolong the complaint where a response has already been provided or a decision has otherwise been made by the PC;
- which disregards documented evidence of action;
- having already exhausted their statutory routes of appeal or other legal rights to remedy;
- which does not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help the complainant to specify their concerns;
- has involved an excessive number of contacts with the PC, placing unreasonable demands on staff time and resources (including demanding immediate responses) or is otherwise part of a 'scatter gun' approach of parallel complaints on the same issue to multiple organisations;
- makes unsubstantiated complaints against the PC, seeking to have those charged with addressing the issues raised replaced by others;
- that involves submitting falsified documentation from themselves or others or involves misconstruction, subterfuge and/or the covert recording of meetings;
- that seeks action from the PC that is beyond its powers.

Process for dealing with unreasonably persistent or vexatious complainants

Any member or the clerk can initiate this Vexatious Policy referring the conduct in question to the full PC. The PC may decide on the matter itself, or, at its discretion, may delegate it to a Complaints Committee.

A Complaints Committee will normally comprise the chairman and two other members, elected ad hoc. If the PC or Complaints Committee (as applicable, the “Deciding Body”) decides that the Vexatious Policy should be invoked, the Clerk will send a letter to the complainant (a “**Warning Letter**”). The Warning Letter will explain to the complainant why their behaviour is considered as unreasonably persistent or vexatious, and warn that, if it continues, the PC may invoke sanctions under its Vexatious Policy. A copy of this Vexatious Policy will be annexed to the Warning Letter. If the complainant persists with their behaviour or pursues other courses of conduct that would also be in breach of this Vexatious Policy, any member or the Clerk can refer the matter back to the Deciding Body which will consider the fresh evidence and decide any sanction/s deemed necessary. The Clerk will then notify the subject in writing of the council's decision, including the sanctions. The PC will notify the Isle of Wight Council of its decision.

Sanctions

The Deciding Body will impose sanctions which it considers necessary and proportionate on a case by case basis including the period of time for which such sanctions will apply. Sanctions may include (but are not limited to):

- prohibiting a person from contacting the PC except through a third party;
- advising the complainant that the PC will not reply to, or acknowledge any further contact from them on the specific topic of the complaint;
- limiting the times for and means of communication by which the PC will engage with the complainant;
- advising the complainant that the PC has fully responded to their complaint and in the circumstances no further action will be taken in respect of their complaint;
- requiring any personal contact to take place in the presence of an agreed witness.

If the subject of the Vexatious Policy continues to behave in a way that is not acceptable, the Deciding Body may instruct the clerk to refuse to deal with him/her at all. The PC reserves the right to report unacceptable behaviour to the police or to take legal action, to protect staff/members. Any use of the Vexatious Policy will be subject to a periodic review on an at least annual basis by the Deciding Body to ensure any sanctions imposed remain necessary and proportionate in the circumstances with the complainant being updated in the event that the sanctions are varied, renewed or prematurely withdrawn.

Rights of complaint

Members' conduct is governed by the PC's Code of Conduct. Subjects who remain aggrieved at the conduct of member/s may refer the matter to the IWC monitoring officer. Complaints about staff may be referred to the PC chairman (as a representative of the corporate employer).