



# Botus Fleming Parish Council

[www.botusfleming.org.uk](http://www.botusfleming.org.uk)

## **PERSISTENT AND/OR VEXATIOUS COMPLAINTS & CORRESPONDENCE POLICY**

### **1. Introduction**

2. If a resident wishes to correspond or complain to the Parish Council this should be done by telephone (07523 005414), email (clerk@botusfleming.org.uk) or letter to the Parish Clerk (Mr Christopher Cook - 24 Rashleigh Avenue, Saltash, Cornwall, PL12 4NS) during the following business hours – Monday to Friday - 0830 hours to 10.30 hours. In order to deal with complaints efficiently and effectively the Parish Council has a Persistent and Vexatious Complaints and Correspondence Policy that sets out how these complaints are dealt with.
3. The Parish Council, Councillors and the Parish Clerk all work closely with residents of the Parish and they aim to provide a quality service whenever they contact them. In doing this everyone should be treated respectfully, courteously and politely and any issue raised will be dealt with in an open, fair and proportionate manner.
4. The Parish Council does not normally limit contact from residents. However, the Councillors and the Clerk should not be expected to tolerate abusive, offensive or threatening behaviour. Similarly, the Council and the Clerk should not be expected to deal continuously with someone who, because of the frequency of their contact, causes an unreasonable and unacceptable burden on the normal work.
5. It is important that the use of this procedure does not prevent residents from accessing services to which they have a statutory entitlement, and it is designed to ensure that the rights of service users are protected, while ensuring that scarce resources are used fairly and effectively, and that the Clerk and Councillors receive a reasonable degree of protection from the stress that can be caused by persistent and/or vexatious correspondence and complaints.
6. Only in a minority of cases do people pursue their complaints in a way that is unacceptable. If the nature and frequency of contact from the complainant is excessive, or the tone of their contact is inappropriate, the Parish Council's Persistent and/or Vexatious Complaints and Correspondence Policy will be used. Frequent complaints of this nature disrupt the normal daily running of the Parish Council because dealing with these can be time consuming and could lead to unnecessary additional cost to the council tax payers or impact on the well being of the Councillors or the Clerk.
7. This policy sets out the actions that the Parish Council can take with a proportionate approach when dealing with this type of contact or behaviour from complainants. Any

action under this procedure will not prevent a potentially serious issue affecting public safety from being investigated. Behaviour that constitutes a criminal offence will be reported to the Police.

## **8. Actions and behaviours of unreasonable behaviour and unreasonably persistent and/or vexatious individuals**

Such individuals are a small minority, but sometimes the Parish Council finds itself in the position of having to restrict access to the Parish Council or even having to resort to legal action to address such behaviour.

Detailed below are some of the actions of unreasonable behaviour and unreasonably persistent and/or vexatious individuals, which the Parish Council consider problematic – it is not an exhaustive list and will vary:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from council staff
- Refusing to cooperate with the complaints investigation process while still wishing their complaint to be resolved
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice
- Making what appear to be groundless 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 he or she made at an earlier stage
- Introducing trivial or irrelevant new information, which the complainant expects to be taken into account and comment on, or raising large numbers of detailed but unimportant questions and insisting they are fully answered
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved
- Producing a selection of transcripts from recordings that are out of context and not a true reflection of the entire conversation
- Adopting a 'scattergun' approach – pursuing a complaint or complaints within the Parish Council and, at the same time, with a member of parliament, a councillor, the Standards Committee, the Ombudsman, and so on
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into
- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations, which

the complainant insists, make these 'new' complaints, which should be put through the full complaints procedure

- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision(s)
- Refusing to accept that the complainant has no actual evidence to substantiate his allegations

## **9. Using the procedure**

If the Clerk or Councillors identify behaviour that they think exhibits these characteristics, and which they believe may be vexatious, they should form a sub-committee consisting of the Chair (or Vice Chair) and two members of the Council.

If the sub-committee agrees with the assessment, they should prepare a brief statement of why the sub-committee considers the complaint or correspondence to be persistent and/or vexatious, including its effect upon the Clerk, Councillors and/or the parish. This should be accompanied by a list of correspondence over the last 6 months via email, telephone and letter, including information about whom the correspondence was addressed to, how many people/organisations it was copied to on each occasion, and a one-line description of each piece of correspondence.

## **10. How we will manage unreasonably persistent and/or vexatious complainants**

### **Step 1 – Warning**

Where circumstances permit we will give the individual a warning that, if their behaviour or actions continue, we may need to take action or apply restrictions. The warning will mention that repeated behaviour may result in the Parish Council invoking its unreasonable persistent and vexatious behaviour process.

### **Step 2 – Unreasonable behaviour process**

If warnings are ignored then the Parish Council will deal with the individual in line with this guidance. The action we take will be appropriate and proportionate, and may include one or more of the following options:

- i. Placing time limits on telephone conversations and personal contacts
- ii. Restricting the number of telephone calls that will be taken – for example, one call on one specified morning/afternoon of any week
- iii. Limiting the individual to one medium of contact – telephone, letter, email – and / or  
requiring the complainant to communicate only with one member of the Parish Council  
or a Specific Point of Contact (SPOC)
- iv. Requiring any personal contacts to take place in the presence of a witness

- v. Refusing to register and process further complaints about the same matter
- vi. Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged, a designated officer should be identified who will read future correspondence
- vii. Blocking email accounts from individuals

## **11. Other considerations**

When making decisions about appropriate action the interests of the complainant will be balanced against the effects that his/her behaviour or actions are having on other members of the Parish Council, other residents, service users and the efficient use of resources.

We will tell the complainant that the decision has been taken, what it means for his or her contacts with the Parish Council, how long any restrictions will last and what the complainant can do to have the decision reviewed. The Parish Council will always review complaints received for new issues that have not been previously addressed.

Councillors may block the email address of an unreasonable, unreasonably persistent and/or vexatious complainant following receipt of this type of email or if they have any experience of unacceptable behaviour from the complainant.

Any action taken will be reasonable, proportionate and balance the interests of the complainant with a duty to protect the health, safety and well-being of the Councillors and the Clerk.

The Parish Council will decide how long it will spend on any one complaint and whether it feels the complaint has been sufficiently dealt with.

Where a complainant is deemed to be unreasonable and unreasonably persistent and/or vexatious or having caused unacceptable behaviour, the Council will write to the complainant to justify its course of action and explain for how long the course of action will be operative.

The Parish Council will review the action taken at least once every six months and the complainant advised should this action be changed.

The complainant may challenge the Parish Council's decision although proof that the complaint has not been sufficiently dealt with will be required.

If deemed to be a fair challenge the Parish Council will conduct a review of the complaint and will re-consider whether the complainant should still be treated as unreasonable or unreasonably persistent or vexatious or having caused unacceptable behaviour.

If a complainant persists in communicating with the Parish Council once their case has been closed, the Council reserves the right to terminate all further communication with the complainant.

The case will only be re-visited if the complainant can provide fresh evidence that affects the Parish Council's previous decision concerning the original complaint.

If the Parish Council feels that re-opening the complaint cannot be justified, the complainant will be notified in writing that the case has been closed and there will be no further communication on the matter.

New complaints from complainants previously deemed to be unreasonable, unreasonably persistent or vexatious or causing unacceptable behaviour will be treated on their merits.

Complaints will be kept on file for no more than six years.

## **12. Handling correspondence and complaints that have been assessed as persistent and/or vexatious**

The first step will be for the Chair to write to the correspondent advising them that their complaint and/or correspondence has been determined to be persistent and/or vexatious and giving the reason for that decision.

The letter should state that any future correspondence would be passed direct to the sub-committee who will consider whether it raises any substantive new issue(s).

The correspondent should be advised that if no substantive new issue were raised, any future correspondence would not receive a response. They should be advised that the decision would be reviewed in six months from the date of the letter advising them that their complaint/correspondence has been determined to be persistent and/or vexatious.

There is no route of appeal against the decision that a complaint or correspondence is persistent and/or vexatious.

Any future correspondence should be passed to the sub-committee for consideration. If they decide that it raises no genuinely new and substantive issues, no response is required.

If they consider it to be appropriate, they may acknowledge the first 2 or 3 pieces of correspondence, referring the correspondent to the letter advising them of the decision that their correspondence has been determined to be persistent and/or vexatious. After that, however, no response or acknowledgement should be sent; If future correspondence does raise significant new issues, it should be responded to.

It may be appropriate for the response to be routed via the Chair in order to prevent the renewal of 'scattergun' correspondence.

## **13. Reviewing the decision**

Six months after the correspondent has been advised that their complaint and/or correspondence is vexatious, that decision should be reviewed. The sub-committee should meet to consider whether there has been any improvement in the vexatious behaviour over that time. The Chair should write to the correspondent advising them of the outcome of the review.

If the behaviour has improved, future correspondence can be treated in the normal way. If there has not been a significant improvement, the correspondence will continue to be treated as persistent and/or vexatious and will be reviewed every six months.

**Any subsequent occurrence may, at the review, be subject to a further six-month period of persistent and/or vexatious complainant status. For example;**

- **First occurrence – 6 months**
- **Second occurrence – 12 months**
- **Third occurrence – 18 months and so on**

#### **14. Procedure for dealing with vexatious requests**

The Freedom of Information Act 2000 deals with this type of request. The Act was designed to give individuals a greater right of access to official information with the intention of making public bodies more transparent and accountable. Whilst most people exercise this right responsibly, a few may misuse or abuse the Act by submitting requests which are intended to be annoying or disruptive or which have a disproportionate impact or cost on the Council.

Under the above Act, the Parish Council can refuse to deal with requests that are considered to be vexatious, repeated or similar, or are accessible by other means for numerous reasons.

This procedure is expected to apply to very few people. The full details for refusal of these requests will be found in Sections 14, 14(1), 14(2) and 21 of the above Act.

- 15. IT SHOULD BE NOTED** – This policy only deals with the conduct of the individual, not the substance of the complaint or concerns raised. The adopted procedures relating to the processing of complaints should be followed regardless of whether this policy is engaged, unless it is considered there are reasons for not doing so.

If this is the case the individual should be advised of this at the earliest opportunity and if appropriate provided with an alternative route to remedy his complaint, such as referral to the Local Government Ombudsman.

Below are some excerpts of the Parish Council's Standing Orders. They are an aide memoire for all Councillors and members of the public that attend public meetings.

##### **1. Rules of debate at meetings**

(j) Subject to standing order 1(k) below, only one amendment shall be moved and debated at a time, the order of which shall be directed by the chairman of the meeting.

(o) Unless permitted by the chairman of the meeting, a councillor may speak once in the debate on a motion except:

- (i) To speak on an amendment moved by another councillor;
- (ii) To move or speak on another amendment if the motion has been amended since he last spoke;
- (iii) To make a point of order;
- (iv) To give a personal explanation; or

(v) In exercise of a right of reply.

(p) During the debate of a motion, a councillor may interrupt only on a point of order or a personal explanation and the councillor who was interrupted shall stop speaking. A councillor raising a point of order shall identify the standing order, which he considers has been breached or specify the other irregularity in the proceedings of the meeting he is concerned by.

(q) A point of order shall be decided by the chairman of the meeting and his decision shall be final.

(r) When a motion is under debate, no other motion shall be moved except:

- (i) To amend the motion;
- (ii) To proceed to the next business;
- (iii) To adjourn the debate;
- (iv) To put the motion to a vote;
- (v) To ask a person to be no longer heard or to leave the meeting;
- (vi) To refer a motion to a committee or sub-committee for consideration;
- (vii) To exclude the public and press;
- (viii) To adjourn the meeting; or
- (ix) To suspend particular standing order(s) excepting those which reflect mandatory statutory requirements.

### **Councils Standing Orders**

#### **Standing Orders for the Council set out with regards to public speaking the following:**

At 2(a) – (c) allows the Chairman of the meeting to deal with conduct at a meeting, which is improper, up to the suspending the meeting;

3(e) does allow representations to be made on items on the agenda, but the duration of this shall not exceed 3 minutes, unless directed by the Chairman

#### **2. Disorderly conduct at meetings**

(a) No person shall obstruct the transaction of business at a meeting or behave offensively or improperly. If this standing order is ignored, the chairman of the meeting shall request such person(s) to moderate or improve their conduct.

(b) If person(s) disregard the request of the chairman of the meeting to moderate or improve their conduct, any councillor or the chairman of the meeting may move that the person be no longer heard or excluded from the meeting. The motion, if seconded, shall be put to the vote without discussion.

(c) If a resolution made under standing order 2(b) above is ignored, the chairman of the meeting may take further reasonable steps to restore order or to progress the meeting. This may include temporarily suspending or closing the meeting. 8 3.

#### **Meetings generally**

- (f) The period of time designated for public participation at a meeting in accordance with standing order 3(e) above shall not exceed 3 minutes unless directed by the chairman of the meeting.
- (g) Subject to standing order 3(f) above, a member of the public shall not speak for more than 3 minutes.
- (h) In accordance with standing order 3(e) above, a question shall not require a response at the meeting nor start a debate on the question. The chairman of the meeting may direct that a written or oral response be given.
- (i) A person who speaks at a meeting shall direct his comments to the chairman of the meeting.
- (j) Only one person is permitted to speak at a time. If more than one person wants to speak, the chairman of the meeting shall direct the order of speaking.

#### **4. Filming and Recording Meetings**

- (d) Disruptive behaviour.
  - (i) No filming, photographing or audio recording of a meeting should be carried out in such a way as to disrupt the proceedings of the meeting.
  - (ii) If person(s) disregard the request of the chairman of the meeting to moderate or improve their behaviour, any councillor or the chairman of the meeting may move that the person be instructed to cease filming, photographing or audio recording. The motion, if seconded, shall be put to the vote without discussion.
  - (iii) If a resolution under standing order 31 d ii) above is ignored, the chairman of the meeting may take further reasonable steps to restore order or to progress the meeting. This may include temporarily suspending or closing the meeting.

#### **15. Code of conduct complaints**

- (a) Upon notification by Cornwall Council that it is dealing with a complaint that a councillor or non-councillor with voting rights has breached the council's code of conduct, the Proper Officer shall, subject to standing order 10 above, report this to the council.
- (b) Where the notification in standing order 15(a) above relates to a complaint made by the Proper Officer, the Proper Officer shall notify the Chairman of Council of this fact, and the Chairman shall nominate another staff member to assume the duties of the Proper Officer in relation to the complaint until it has been determined and the council has agreed what action, if any, to take in accordance with standing order 15(d) below.
- (c) The council may:
  - (i) Provide information or evidence where such disclosure is necessary to progress an investigation of the complaint or is required by law;



- (ii) Seek information relevant to the complaint from the person or body with statutory responsibility for investigation of the matter;
- (d) Upon notification by Cornwall Council that a councillor or non-councillor with voting rights has breached the council's code of conduct, the council shall consider what, if any, action to take against him. Such action excludes disqualification or suspension from office.

### **Knowles on Local Authority Meetings**

With regards to the power of the Chair, Knowles on Local Authority Meetings sets out that the power of the person Chairing the meeting is generally not found in statute, the power is drawn from the meeting. However, Knowles is clear in that the Chair, other than by a motion to remove him, has virtually absolute rule over a meeting.

Providing the Chair acts in good faith, a decision of the Chair, even if not strictly correct, would be upheld by the court, though if someone wishes to challenge a decision this can only be done through the courts.

When considering Code of Conduct complaints to consider all the facts objectively, the starting point for this is the power of the Chairman at meetings.

Whilst there is a right for members of the public to attend meetings, there is no automatic right for them to speak, and when it is allowed, this is within parameters which are often set out by standing orders, though it often falls to the Chair on how to interpret these.

Some councils adopt a strict stance in that public speaking is limited to matters on the agenda. However the Chair can limit the public ability to speak, and considering the powers of the Chair as found in Knowles, this would include the Chair having the right to restrict the a member of the public from speaking at any point.

This right would not, however, extend to terminology that was considered to be disrespectful or abusive.

### **References**

Botus Fleming Parish Council - Unreasonably Persistent and/or Vexatious Complainants Policy 2022

Adopted: July 2022 (Author: Cllr D. Edwards) 19<sup>th</sup> July 2022

Revised: September 2023 (Schedule 13 – Cllr J. Oakes) 27<sup>th</sup> September 2023

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