

ABUSIVE, PERSISTENT, VEXATIOUS OR FRIVOLOUS COMPLAINTS POLICY

1. Introduction

- 1.1 This policy identifies situations where a complainant, either individually or as part of a group, or as a group or series of complainants, might be considered to be abusive, persistent, vexatious or frivolous and ways of responding to these situations.
- 1.2 This policy intends to assist in identifying and managing persons who seek to be disruptive to the Community Council, individual councillors and members of staff or any contractor working on behalf of the Community Council through pursuing an unreasonable course of conduct. In cases of abusive, persistent, vexatious or frivolous complaints against a member of staff, this policy will work in conjunction with the Community Council's other policies covering treatment of staff.
- 1.3 The term complaint in this policy includes requests made under the **Freedom of Information Act 2000** and under the **Data Protection Act 1998**, including subsequent amendments to these Acts, and any reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.
- 1.4 Abusive, persistent, vexatious or frivolous complainants can be a problem for Council members and staff. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of officer and member time. While the council endeavours to respond with patience and sympathy to the needs of all complainants 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 Raising of legitimate queries or criticisms of a complaints procedure as it progresses, for example, if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.
- 1.6 The aim of this policy is to contribute to the overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

2. Abusive, Persistent, Vexatious or Frivolous Complainants

- 2.1 For the purpose of this policy the following definition applies:
Abusive is taken as the dictionary definition, the term persistent means constantly repeated and 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'.

Examples, representative only, may include:

- unreasonable complaints and/or unrealistic outcomes
- reasonable complaints in an unreasonable manner
- targeting an individual Councillor or member of staff
- using inappropriate language and/or refusing to comply with rules relating to meetings
- misuse of social media sites to attack the Council or individuals

- 2.1 Prior to its implementation the Council will send a summary of this policy to the complainant to give them prior notification of its possible implementation. The summary may be restricted to advice on access the full Policy via the Community Council Website.
- 2.2 Where complaints continue and have been identified as abusive, persistent, vexatious or frivolous in accordance with the criteria set out in Section 3, the Council or appointed committee will seek agreement to treat the complainant as an abusive, persistent, vexatious or frivolous complainant for the appropriate course of action to be taken. Section 4 details with the options available for dealing with abusive, persistent or vexatious complaints.
- 2.3 The Community Clerk, as responsible officer, will notify complainants, on behalf of the Community Council, in writing, of the reasons why their complaint has been treated as abusive, persistent, vexatious or frivolous and the action that will be taken. Powys County Council will also be informed that an individual or organisation has been designated as an abusive, persistent, vexatious or frivolous complainant.
- 2.4 The status of the complainant will be kept under review. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed.

3. Definitions

- 3.1 Penybont & Llandegley Community Council defines unreasonably persistent, vexatious or frivolous complainants as those complainants who, because of the frequency or nature of their contacts with the Town Council, staff or contractors hinder the Community Council's consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 3.2 Examples include the way in which, or frequency with which, complainants raise their complaint with staff or how complainants respond when informed of the Community Council's decision about the complaint.
- 3.3 Each case will be viewed individually and decided on its merits. However, a complainant (and/or anyone acting on their behalf) may be deemed to be persistent or vexatious if previous or current contact with them shows that they may meet any or all of the following criteria, dependent upon degree.
- 3.4 Features of an unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category):

An unreasonably persistent and/or vexatious complainant may:

- Have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)
- Refuse to specify the grounds of a complaint despite offers of assistance
- Refuse to co-operate with the complaints investigation process, even if the original complaint was valid and eventually upheld, while still wishing their complaint to be resolved

- Refuse to accept that issues are not outside the remit of the complaints policy and procedure despite having been provided with information about the scope of the aforementioned policy and procedure
- Refuse to accept that issues are not within the power of the Council to investigate, change or influence.
- Insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (e.g. insisting that there must not be any written record of the complaint or that an individual should not deal with the complaint)
- Make what appear to be groundless complaints, after consideration by the Chair, about the person dealing with the complaints, and seek to have them dismissed or replaced by making an unreasonable number of contacts with the Community Council, by any means, in relation to a specific complaint or complaints.
- Continue to make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to questions, frequent and/or complex letters, faxes, telephone calls, e-mails or other social media communications)
- Harass or verbally abuse of any kind towards councillors or staff or otherwise seek to intimidate anyone dealing with their complaint, by use of foul, inappropriate language, or by the use of offensive or racist language
- Raise subsidiary or new issues whilst a complaint is being addressed that were not part of the original complaint at the start of the complaint process
- Introduce trivial or irrelevant information whilst the complaint is being investigated and expect this to be taken into account and commented on
- Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- Electronically record meetings and conversations without the prior knowledge and consent of the other person(s) involved
- Adopts an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Community Council, but at the same time with, for example, a Member of Parliament, other Councils, elected Members of this and other Councils, the Community Council's Independent Auditor, the Monitoring Officer, the Police
- Refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- Make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded

- Persistently approach the Community Council through different routes about the same issue
- Persist in seeking an outcome which the Community Council has explained is unrealistic for legal or policy (or other valid) reasons
- Refuse to accept documented evidence as factual
- Complain about or challenge an issue based on an historic and/or an irreversible a decision or incident.
- Have a documented historic grievance against the Council, a member or member of staff.

3.5 A frivolous claim or complaint is one that has no serious purpose or value. Often a "frivolous" claim is one about a matter so trivial or one so meritless on its face that investigation would be disproportionate in terms of time and cost.

4. Imposing Restrictions

4.1 Penybont & Llandegley Community Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.

4.2 In the first instance the Community Clerk will consult with the Chair or appointed committee, whether or not the committee has made a recommendation to the Community Council, prior to issuing a warning to the complainant. The Community Clerk will contact the complainant in writing, or by email, to explain why this behaviour is Abusive, Persistent, Vexatious or Frivolous and causing concern. The Community Council will ask them to change this behaviour and outline the actions that the council may take if they do not comply.

4.3 If the disruptive behaviour continues the Community Clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the Community Council in future will be restricted. The Council will make this decision in consultation with the appointed committee and inform the complainant in writing of what procedures have been put in place and for what period.

4.4 Any restriction imposed on the complainant's contact with the Council will be appropriate and proportionate and the complainant will be advised of the period of time that the restriction will be in place for. In most cases restrictions will apply for after 6 months, but in exceptional cases this may be extended. In such cases the restrictions will be reviewed on a quarterly basis by the Council or appointed committee who will make a recommendation to the Town Council.

4.5 Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Banning the complainant from making contact by telephone except through a third party e.g. a solicitor, a Councillor or a friend acting on their behalf, not being a relative
- Banning the complainant from sending emails to individual and/or the Community Clerk and insisting they only correspond by letter

- Requiring contact to take place with one or more named persons only
- Restricting telephone calls to specified days and/or times and/or duration
- Requiring any personal contact to take place in the presence of an appropriate witness
- Letting the complainant know that Penybont & Llandegley Community Council will not reply to, or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated person will be identified who will read future correspondence)

4.6 When the decision has been taken to apply this policy to a complainant, the Community Clerk will contact the complainant in writing to explain:

- Why the decision has been taken
- What action is being taken
- The duration of that action

4.7 The Community Clerk will enclose a copy of this policy in the letter to the complainant. Where a complainant continues to behave in a way that is unacceptable to the Community Council, the Community Clerk, in consultation with the Council or appointed committee may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

4.8 Where the behaviour is so extreme or it threatens the immediate safety and welfare of anyone, other options will be considered, e.g. the reporting of the matter to the police or taking legal action. In such cases the complainant will not be entitled to prior warning of that action.

5. New Complaints (from complainants who are treated as abusive, persistent, vexatious or frivolous.)

5.1 New complaints from people who have come under this policy will be treated on their merits. The Community Clerk and the Council or appointed 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 founded.

5.2

The fact that a complainant is judged to be abusive, persistent, vexatious or frivolous and any restrictions imposed on Council's contact with him or her, will be recorded and notified to Powys County Council.

6. Review

6.1 The status of a complainant judged to be unreasonably abusive, persistent, vexatious or frivolous will be reviewed by the Council or appointed committee after six months, and at the end of every subsequent six months within the period during which the policy is to apply.

6.2 The complainant will be informed of the result of any review if the decision to apply this policy has been changed or extended.

7. Record Keeping

7.1 The Community Clerk will retain adequate records of the details of the case and the action that has been taken.

7.2 Records will be kept of:

- The name and address of each member of the public who is treated as abusive, persistent, vexatious or frivolous complainant
- When the restriction came into force and ends
- What the restrictions are
- When the person and Community Council were advised

7.3 The Community Council will, if applicable, be provided with an annual report by the **Community Clerk** or appointed sub-committee giving information about members of the public who have been treated as abusive, persistent, vexatious or frivolous as per this policy.

Draft Prepared	11.06.21
Adopted	14.07.21