

## **COPYTHORNE PARISH COUNCIL MEETING – NOVEMBER 9<sup>TH</sup> 2021**

### **ITEM 13 – To receive and approve a report on revision of the Council's Complaints Policy**

#### **BACKGROUND**

The Personnel & Governance Advisory Committee has already accepted the principle of a rolling review of all Council policies and procedures.

#### **CURRENT POSITION**

The Parish Council's current Complaints policy was first adopted in May 2017 with no amendment to its substance since.

I have therefore reviewed a number of template policies for both a Complaints Policy and a separate Habitual and Vexatious Complaints Policy (brief mention only of which is made in the current Complaints Policy).

Attached as Appendix 1 (Complaints Policy) and Appendix 2 (Habitual & Vexatious Complaints Policy) are proposed policies using SLCC Model Policies. Any additions are shown in red and any deletions are shown by striking through text. These changes almost exclusively relate to how Copythorne Parish Council is set up.

#### **RECOMMENDATION**

The Personnel & Governance Advisory Committee having discussed the attached policies at its meeting on October 22<sup>nd</sup> 2021 considers both policies acceptable and recommends to Council that they be adopted as drafted.

**David Rigby, Clerk**  
**October 25<sup>th</sup> 2021**

## APPENDIX 1

### SLCC MODEL POLICY

## Complaints Procedure

### 1. The Importance of Complaints

1.1 Complaints are valuable because they provide a chance to put things right if there has been an error, and to make sure that the same mistake is not repeated.

1.2 It is essential that complaints are dealt with positively. Copythorne Parish Council is anxious to hear people's comments and is committed to making full use of complaints information to contribute to continuous service improvement. Important information about areas for improvement can be obtained both from a single complaint and from patterns of complaints, highlighted by detailed monitoring.

### 2. Definition of A Complaint

2.1 A complaint is *any expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Parish Council or its staff which affects an individual customer or group of customers.*

#### 2.2 What the complaints procedure will deal with: -

The complaints procedure will deal with matters of maladministration, which is if the Parish Council does something the wrong way, fails to do something it should do or does something it should not do. Some examples include:

- neglect or unjustified delay
- malice, bias, or unfair discrimination
- failure to tell people their rights
- failure to provide advice or information when reasonably requested
- providing misleading or inaccurate advice
- inefficiency, ineffectiveness, bad and unprofessional practice or conduct.

#### 2.3 What the complaints procedure will not deal with: -

- complaints for which there is a legal remedy or where legal proceedings already exist.
- complaints about employment matters - the Parish Council operates alternative procedures to deal with grievances or disciplinary matters against staff
- the following types of complaint:-

<i>Type of allegation/complaint/issue</i>	<i>Refer to</i>
Financial irregularity	PKF Littlejohn LLP (Ref: SBA Team), 15 Westferry Circus, Canary Wharf, London, E14 4HD who are the External Auditor appointed by the Smaller Authorities Audit Appointment Ltd
Criminal activity	The police
Member conduct	If the complaint relates to an alleged failure of a Parish Councillor to comply with the Parish Council's Code of Conduct, the complaint should be addressed to The Monitoring Officer, New Forest District Council, Appletree Court, Beaulieu Road Lyndhurst, Hampshire SO43 7PA

### 3. Equal Opportunities

3.1 The Parish Council is committed to equal opportunities. Complaints feedback will be used to highlight discriminatory practices, and to promote equality of opportunity.

3.2 Complaints by members of the public of discrimination and/or harassment against the Parish Council will be dealt with through the complaints procedure unless it is a complaint that should be dealt with through a statutory procedure.

### 4. Complaints Officer

4.1 The Complaints Officer for the Parish Council is the Parish Clerk. Their main duties are:

(i) The day to day operation and management of the procedure, including providing a reference point for staff queries on informal complaints.

(ii) To oversee, and undertake where necessary, the investigation of formal complaints at the first stage, within the relevant time scales.

(iii) To maintain a record of all complaints received including details of the nature of the complaint, action taken, outcome, and time taken to resolve.

(iv) To identify improvement points arising from any complaints.

(v) To identify staff training issues.

### 5. Stages of The Procedure

5.1 The stages of the procedure are designed to provide the complainant with a thorough and fair means of redress and to provide a framework for officers to work within. However, there may be occasions when a complainant makes an approach in a different manner and it is important that the procedure does not in itself become a barrier to effective communication.

5.2 **Everyday problems, queries and comments** - The Council receives queries, problems and comments as part of its day to day running, and they should not all be regarded as complaints. These are routine and expected and are generally resolved quickly to the customer's satisfaction. If someone is dissatisfied with the original service or response they received and wishes to take the matter further then the issue should be recognised as a complaint.

5.3 **Informal Complaint** - During the course of daily business, minor complaints are made to officers about the services we provide. These will usually be dealt with by the relevant officer as appropriate. It is not appropriate for every comment to be treated as a formal complaint. Every effort should be made to deal with these problems immediately, either by providing information, instigating the appropriate action or explaining a decision.

5.4 **Formal Complaint (First Stage)** A complainant may wish to make a formal complaint directly, or may be unsatisfied with the outcome of an informal complaint and may wish to take the matter further. This will be recorded as a complaint and passed to the Parish Clerk to investigate. If the complainant remains unsatisfied with the response, they should be informed of their right to take the matter further.

***Timescales:-***

***Acknowledgement - by return of post  
Investigation completed - 14 days  
or Progress Reports Issued - 14 day intervals  
Investigating Officer: Parish Clerk***

**5.5 Councillors' Panel** - If the issue still remains unresolved, the complainant should be notified of his or her right to have the matter referred to a panel consisting of the **Chairman of the Council** ~~Mayer~~ (or the **Vice Chairman of the Council** ~~Deputy Mayer~~ if the complaint refers to the **Chairman** ~~Mayer~~), and two other Councillors appointed by the Council who have not had previous involvement with the complaint or are referred to in the complaint. There will also be a note-taker, nominated by the panel, who will also not have had previous involvement in the complaint. The outcome of all formal complaints dealt with by the panel will be advised to the Council.

**5.6 Unreasonable and Vexatious Complaints** - There will be circumstances when a complainant persists in wishing to pursue a complaint when it clearly has no reasonable basis, or when the Council has already taken reasonable action in response, or where some other process, whether through the courts or some other recognised procedure, should or has been taken. The Council has a separate policy for Habitual or Vexatious Complaints.

~~These matters should be referred to the Parish Clerk with a summary of the issues and of the attempts made to resolve the complaint. They may, in such circumstances, decide that no further action can usefully be taken in response to the complainant, and inform the complainant so, making it clear that only new and substantive issues will merit a response.~~

**5.7 Anonymous Complaints** - Anonymous complaints should be referred to the Parish Clerk, and may be acted on at their discretion, according to the type and seriousness of the allegation.

## **6 Resolution and Remedies**

The aim in dealing with all complaints is to reach a resolution or remedy that satisfies the complainant, whether it is the remedy they were originally seeking or not. Where a complaint is found to be at all justified, consideration may need to be given to the question of an appropriate remedy. An explanation or an apology will always be needed.

## **7 Contact**

Copythorne Parish Council  
Parish Clerk: Mr David Rigby  
Address: 9 The Cleaves, Totton, Southampton, SO40 8WL  
Telephone: 023 8112 0150  
E-mail [parishclerk@copythorne.org.uk](mailto:parishclerk@copythorne.org.uk)

## APPENDIX 2

### SLCC MODEL POLICY

#### **Habitual & Vexatious Complaints Policy**

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

###### **1. Introduction**

1.1 This policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual or vexatious. The following clauses form the Council policy for ways of responding to these situations.

1.2 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 without sufficient grounds for winning, purely to cause annoyance to the defendant'. This policy intends to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.

1.3 The term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.

1.4 Habitual or vexatious complaints can be a problem for Council staff and members. 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. Habitual or Vexatious Complainants**

2.1 For the purpose of this policy the following definitions of habitual or vexatious complainants will be used: *The repeated and/or obsessive pursuit of:*

*(1) unreasonable complaints and/or unrealistic outcomes;*

*and/or*

*(2) reasonable complaints in an unreasonable manner.*

2.2 Prior to considering its implementation the Council will send a *summary* of this policy to the complainant to give them prior notification of its possible implementation.

2.3 Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the **Clerk in conjunction with the chairman and vice-chairman** ~~staff and Communications Committee~~ will seek agreement to treat the complainant as a habitual or vexatious complainant for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious complaints.

2.4 The Clerk on behalf of the Council will notify complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. Councillors will also be informed that an individual has been designated as an habitual or vexatious complainant.

2.5 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 Copythorne Parish Town Council defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder the 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 complaints with staff or how complainants respond when informed of the Council's decision about the complaint.

3.3 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 while still wishing their complaint to be resolved.
- refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the 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)
- make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint or complaints
- 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 or e-mails)
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and racist language or publish their complaints in other forms of media.
- raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- introduce trivial or irrelevant new 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
- deny statements he or she made at an earlier stage in the complaint process
- are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved
- adopts a 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Council, but at the same time with, for example, a Member of Parliament, other Councils, elected Councillors of this and other Councils, the Council's Independent Auditor, the Standards Board, the Police, other public bodies or solicitors
- 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 and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- persistently approach the Council through different routes or other persons about the same issue
- persist in seeking an outcome which 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 decision or incident
- combine some or all of these features.

#### **4. Imposing Restrictions**

4.1 The 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 Clerk will consult with the Chairman **and Vice Chairman** of the Council ~~and Chairman of the Communications Committee~~ prior to issuing a warning to the complainant. The Clerk will contact the complainant in writing, or by e-mail, to explain why this behaviour is causing concern and 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 Clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the Council in future will be restricted. The Clerk will make this decision in consultation with the Chairman of the Council and the Chairman of the Communications Committee and inform the complainant in writing of what procedures have been put in place and for what period.

4.4 Any restriction that is 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 over which that the restriction will be in place. In most cases restrictions will apply for between three to six months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis, or at the next Council Meeting.

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
- banning the complainant from sending emails to individuals and/or all Council Officers and insisting they only correspond by postal letter
- requiring contact to take place with one named member of staff 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 the Council will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff will be identified who will read future correspondence).

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

- why the decision has been taken
- what action has been taken
- the duration of that action.

4.7 The Clerk will enclose a copy of this policy in the letter to the complainant.

4.8 Where a complainant continues to behave in a way that is unacceptable, the Clerk, in consultation with the Chairman **and Vice Chairman** of the Council ~~and the Chairman of the Communications Committee~~ may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

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

## **5. New complaints from complainants who are treated as abusive, vexatious or Persistent**

5.1 New complaints from people who have come under this policy will be treated on their merits. The Clerk, the Chairman of the Council in conjunction with the Chairman of the Communications 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 ignoring genuine service requests or complaints where they are founded.

5.2 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on Council's contact with him or her, will be recorded and notified to those who need to know within the Council.

## **6. Review**

6.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Clerk, the Chairman **and Vice Chairman** of the Council and the Chairman of the ~~Communications Committee~~, after three months, and at the end of every subsequent three months within the period during which the policy is to apply, ~~or by the next Council Meeting~~.

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

## **7. Record Keeping**

7.1 The Clerk will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:

- the name and address of each member of the public who is treated as abusive, vexatious or persistent, or any other person who so aids the complainant
- when the restrictions came into force and ends
- what the restrictions are
- when the person and Council were advised.

7.2 Council be provided with a regular report giving information about members of the public who have been treated as vexatious/persistent as per this policy.