



The Sampfords Parish Council

COMPLAINTS POLICY & PROCEDURE

Introduction

The Sampfords Parish Council takes all complaints made against its employees and its administration and procedures very seriously.

Councillors are covered by a Code of Conduct and any complaints about an individual Councillor's conduct must, in the first instance, be made to the Monitoring Officer, Uttlesford District Council, for assessment by its Standards Committee.

Nature of Complaints

Parish Council Decisions & Actions

Complaints against general council decisions or actions shall be referred to the full council for consideration and follow the Complaints Code of Practice steps below.

Financial

Complaints regarding financial matters should, in the first instance, be referred to the Clerk / RFO, and if the Clerk / RFO is unable to resolve the matter, the complainant should be advised of the Local elector's statutory right to object to the Council's audit of accounts pursuant to s.16 Audit Commission Act 1998.

Criminal Activity

With complaints involving criminal activity, the complainant must be referred to the Police.

Members or, Body Acting on behalf of the Council

Complaints of dissatisfaction about one or more councillors' action or, lack of action or, about the standard of a service, whether the action was taken or, the service provided by the councillor or, a person or body acting on behalf of the council shall be dealt with as follows:

On receipt of a complaint, the Clerk / RFO and the Chairman of the Council (except where the complaint is about the Chairman's actions), shall try to settle the complaint directly with the complainant. This shall not be done without notifying the person complained against and giving him/her an opportunity to comment. Efforts should be made to settle the complaint at this stage and settlement confirmed in writing. Failure to settle the complaint by the Clerk / RFO and the Chairman, the complaint will be referred to the Monitoring Officer, Uttlesford District Council.

Where the Clerk / RFO or Chairman receives a written complaint about the Clerk / RFO's own action, he/she shall refer the complaint to the Chairman of the Council. The Clerk shall be notified and given an opportunity to comment.

Complaints Code of Procedure

Step 1

If a complaint is made orally to a councillor or, the Clerk / RFO, they should seek to satisfy the complaint fully. If the council cannot satisfy a complaint in an informal way, then the following Complaints Code of Practice steps will be adhered to:

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Step 2

The complainant will be asked to put the complaint in writing to the Clerk / RFO or, if preferred to the Chairman of the Council and will be assured that it will be dealt with promptly upon receipt.

Within five (5) working days of receiving the written complaint, the Clerk / RFO will acknowledge the receipt of the complaint and notify the complainant of the date on which the complaint will be considered (typically the next full council meeting), during which, the complainant shall be offered an opportunity to attend the meeting and bring a representative with them, to express the complaint orally.

However, if such a matter may be related to Grievance, Disciplinary or Standards Committee proceedings that are taking, or likely to take place when such a hearing may prejudice those hearings when the complaint will have to be heard under Exempt Business to exclude any member of the public or, the press or, deferred on appropriate advice received.

Step 3

The Clerk / RFO or, the Chairman of the Council, shall report to the next meeting of the Council any written complaint disposed of by direct action with the complainant.

Copies of any documentation relating to the complaint should be made available to the council and the complainant, seven working days prior to the meeting.

All formal complaints will be heard at full council meeting, which if practicable, should be the next meeting after receiving the complaint.

Step 4

At the meeting where the complaint is to be discussed, the Chairman will introduce everyone and explain the Council's procedure on handling a complaint.

The council shall consider whether the circumstances surrounding any complaint, warrant the matter being discussed in the absence of the press and public, nevertheless, any decision made regarding a complaint, shall be announced at the council meeting in public.

The complainant and / or their representative will be asked to outline the grounds for complaint.

Councillors may ask the complainant any questions.

If relevant or required to do so, the Clerk / RFO will explain the Council's position.

The complainant may ask the Clerk any questions.

First the council, and then the complainant, will be offered the chance to have any concluding comments.

The Clerk / RFO and the complainant to be asked to leave the meeting whilst the councillors decide whether or not the grounds for the complaint have been met.

The Clerk / RFO and the complainant will be asked to return to the meeting to hear the decision that has been made, or to be advised when the decision will be made. The decision, together with details of any action to be taken, to be confirmed in writing within seven working days.

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A council shall defer dealing with any written complaint, only if it is of the opinion that issues of law or practice arise on which advice is necessary. The complaint shall be dealt with after the advice has been received. Such actions shall be confirmed in writing to the complainant.

Procedure for Dealing with Habitual or Vexatious Complainants

Background

Following the introduction of the Freedom of Information Act, the public and press have a right to make requests for information held or owned by The Sampfords Parish Council. Such requests will be processed using our Freedom of Information and Complaints Policy & Procedures as appropriate.

However, there may be occasions where the requests for information, complaints or grievances may be deemed habitual or vexatious. These may involve, amongst others but not limited to, cases where there are:

- serial requests for information, serial complaints or serial grievances about different matters – received by letter, email or voicemail/messages,
- requests, complaints or grievances that regularly focus on a trivial matter to an extent which is out of proportion to the matter's significance and continue to focus on such points,
- grievances that are constantly reiterated which are without substance and have no foundation.

If the persistence of requests for information, complaints or grievances adversely affects the council's ability to do their work and provide a service to others, the council may need to address such behaviour by restricting, suspending or terminating contact with members of the council and staff.

The council does not expect staff or members to tolerate unacceptable behaviour by complainants which causes or may cause undue stress.

The council recognises that it is important to distinguish between people who make a number of complaints because they genuinely believe decisions and / or actions made by the council have been made incorrectly, and people who are simply being difficult. It is acknowledged that complainants will often be frustrated and aggrieved, consequently, it is important to consider the merits of each case rather than a complainant's attitude.

Definition of a Habitual or Vexatious Complainant

Complainants and / or representative, may be deemed to be habitual or vexatious where previous or current contact with them shows that they meet one or more of the following criteria:

1. Persist in pursuing a complaint/grievance where the council's Complaints or Freedom of Information Policies & Procedures have been fully and properly implemented and exhausted.



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2. Persistently change the substance of a complaint / grievance or, continually raise new issues or seek to prolong contact, by continually raising further concerns or questions upon receipt of a response whilst the complaint / grievance is being addressed.
3. Are repeatedly unwilling to accept documented evidence given as being factual or, deny receipt of an adequate response in spite of correspondence specifically answering questions or, do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
4. Repeatedly fail to identify clearly the precise issues which they wish to raise despite reasonable efforts of the council to address their concerns, and / or where the concerns identified are not within the remit of the council.
5. Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a trivial matter can be subjective and careful judgement will be used in applying this criteria.
6. Have threatened or used physical violence towards councillors or staff, at any time this will, in itself, cause personal contact with the complainant and / or a representative to be discontinued and the complaint will, thereafter, only be continued through written communication received by post. All such incidences will be fully documented. The council has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as a vexatious complainant and will receive written confirmation that this is the case and will inform the complainant of the action that will be taken.
7. Have, in the course of addressing a registered complaint or grievance, had an excessive number of contacts with the council, placing unreasonable demands on councillors and / or staff. For the purposes of determining an excessive number, the contact may be in person, by telephone, letter, e-mail, voice & written messages and social media. Discretion will be used in determining the precise of number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
8. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards councillors and / or staff dealing with the complaint / grievance. The council, however, recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. Nevertheless, all instances of harassment, abusive or verbally aggressive behaviour will be fully documented.
9. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards councillors and / or staff, whether this has been on a face-to-face contact or at public meetings.
10. Are known to have recorded meetings or face-to-face / telephone conversations without the prior knowledge and consent of other parties involved and / or have impersonated any councillors or staff with the objective of soliciting information for whatever purpose.



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11. Have, in the opinion of the Clerk / RFO, made unreasonable requests or demands and failed to accept that these may be unreasonable.
12. Have sought to coerce, intimidate or threaten councillors and / or staff or, other people involved, whether by use of language, tone of voice or behaviour including body language.

Actions

Where complaints have been identified as habitual or vexatious in accordance with the criteria set out above the Clerk / RFO, being the Executive Officer of the council, in liaison with the Chairman, will determine what action to take. The Clerk / RFO will implement such action and will notify the complainant(s), that their complaint / grievance is considered as habitual and or vexatious and the action that will be taken.

For completeness, this notification will be copied to all councillors and may be copied to any others already involved. A record will be kept, for future reference, of the reasons why a complaint has been classified as habitual or vexatious.

In liaison with the Chairman, the Clerk / RFO may decide to deal with habitual or vexatious complaints in one or more of the following ways:

1. By letter, setting out a code of commitment and responsibilities for the parties involved if the Council is to continue processing the complaint / grievance. If these terms are contravened, consideration will then be given to implementing other action as indicated below.
2. By declining contact with the complainant, either in person, by telephone, by letter, by e-mail, messaging, or any combination of these, provided that one form of contact is maintained which will be by conventional post (letter).
3. By notifying the complainant, in writing that the council has responded to the points raised and has tried to resolve the complaint / grievance, but that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that it is being treated as a habitual or vexatious complainant and as such the council does not intend to engage in further correspondence dealing with the complaint.
4. By informing the complainant that the council reserves the right to seek legal advice on unreasonable or vexatious complaints / grievances and behaviour.
5. By temporarily suspending or permanently suspending all contact with the complainant, in connection with the issues relating to the complaint or grievance being considered habitual and/or vexatious.

Restricting Contact

Any restrictions will be appropriate and proportionate to the nature of the complainant's contacts with the council at that time. The following are examples of the types of restriction which may be used:

- Placing time limits on telephone conversations and personal contacts.



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- Restricting the number of telephone calls that will be taken, for example; one call on one specified morning / afternoon of any week.
- Limiting the complainant to one medium of contact (telephone, letter, e-mail, etc.).
- Requiring the complainant to communicate only with a named contact only.
- If a complaint is currently going through the council's complaints procedure, asking the complainant to enter into a written agreement about its future conduct if the complaint is to be progressed.
- Requiring any personal contacts to take place in the presence of a witness.
- Closing the investigation into a complaint.
- Refusing to register and process further complaints providing the complainant with acknowledgements only of further letters, messages, or e-mails received after a particular point.
- Banning a complainant from the council's premises.
- Involving the police in cases where it is believed the complainant has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened, or where the complainant refuses repeated requests to leave council premises.

Where this policy is applied, the complainant will be told in writing why a decision has been made to restrict future contact, the restricted contact arrangements, the length of time that these restrictions will be in place and what they can do to have the decision reviewed.

There should never be a blanket ban for an unspecified period of time.

The council will try to maintain one form of contact which will be by way of conventional post (letter). In extreme situations, the council will inform the complainant in writing, that its name is on a 'no personal contact' list contained in the council's Awareness Register. When it is deemed that it is appropriate to include a complainant on the Awareness Register, the form attached at Appendix 1 will be completed.

This means that they must restrict contact with the council's office to either written communication received by letter, or through a nominated third-party advocate known and declared to be acting on the complainant's behalf.

In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual, with the need to ensure other residents and council employees do not suffer any disadvantage or undue stress, and the resources of the council are used as effectively as possible.

All information held on the Awareness Register will be reviewed annually as part of the evaluation and review process for the effectiveness of this policy.

There is no right to appeal a decision, so members of the public should observe common dignity, courtesy, respect and consideration, to those to whom the complaint / grievances are addressed prior to engaging upon a habitual or vexatious complaint / grievance route. The basic principle of treat others as you would expect them to treat you applies.



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Threatening and Abusive Complainants and Harassment

The council believes that harassment is totally unacceptable. The council will work to prevent any form of harassment from happening in the first instance and where it has already occurred, will work to prevent it from happening again.

Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may include, but not be limited to, the following activities:

- Actions characterised as offensive, intimidating, malicious, insulting or humiliating that attempts to undermine or injure an individual or group of individuals.
- Actions characterised as discrimination / victimisation in any act of inappropriate differential treatment, intentional or otherwise, direct or indirect, which is based on an individual's identity

If staff are subjected to any threatening or abusive complaints the council's "Step Away Policy" is immediately implemented in order to protect staff and members.

Step Away Policy

Where there is abusive or aggressive behaviour which produces damaging or hurtful effects, physically or emotionally on councillors and staff which includes, but not exclusively, verbal abuse (including name calling), bullying, shouting or swearing or threat of any of these behaviours the staff and members are to step away from the situation.

This can mean terminating a conversation whether it is face to face or by telephone or advising that the conversation is being terminated.

Legal Position

Under the Freedom of Information Act 2000 Section 14(1), public authorities do not have to comply with vexatious requests. The council also has a legal duty under the Health and Safety at Work etc. Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare at work of its employees.

This policy and guidance aim to meet the objectives set out in the council's general policy in respect of Health & Safety at Work and its Equal Opportunities and Diversity Policy. This above policy and guidance together with the organisation and arrangements for carrying it out are part of the council's principles relating to its application of Health & Safety policy. Particular attention is paid in this document to the provision of systems of work, and a working environment, that is safe and without risks to health. Within this framework the council affirms its intention to ensure, so far as is reasonably practicable, the health and safety of its employees against abuse and violence arising from or during the course of their work activities.

