

Monk Hesleden Parish council

Vexatious Complaints Policy

Approved 29th April 2021

This policy should be read in conjunction with the Parish council's Equal Opportunities, Complaints and Data Protection Policies.

Introduction

This policy has been produced to create a joint understanding of what is considered acceptable and unacceptable behaviour when working with officers, employees and councillors of Monk Hesleden Parish council. It includes dealing with abusive, persistent or unreasonable behaviour and vexatious complaints from members of the public. It also includes the identifying of potentially violent individuals on the parish council's electronic management systems. The Parish council is keen to positively and proactively work with parishioners to resolve issues as and when they occur.

This policy has four main sections:

- Section 1: Unreasonable behaviour when contacting Monk Hesleden Parish council
- Section 2: Vexatious/persistent complainants
- Section 3: Options to restrict and manage contact
- Section 4: Record keeping and monitoring of those who are subject to the Vexatious Complaints

The Purpose of this Policy

To define the behaviours that are not acceptable to the Parish council, including behaviour exhibited by people making formal complaints.

To ensure that the ability of staff and councillors to conduct business is not adversely affected by individuals who behave in an unreasonable or vexatious manner.

To ensure employees and councillors have a safe working environment and are not exposed to unnecessary stress, harassment or violence due to the unacceptable behaviour of others and that they are supported as appropriate.

To ensure that employees and councillors can deal confidently and effectively with unreasonable behaviour should it occur.

Who does this Policy apply to?

This policy applies to everyone who has

Section 1: Unreasonable Behaviour when Contacting Monk Hesleden Parish council

The Parish council has a duty of care to its employees and councillors to protect them from avoidable stress and upset at work and to use policies and procedures to protect them from what we consider to be unacceptable levels or types of contact. We recognise that when you contact the Parish council you may have reason to feel aggrieved, upset or distressed. However, it is not considered acceptable when these feelings become aggressive and are directed towards individual employees or councillors.

What behaviour is unreasonable?

Unreasonable behaviour is behaviour or language, in whatever form whether face to face, by telephone, social media, SMS (text message) or written that may cause employees or councillors to feel intimidated, threatened or abused. Examples may include:

- Threats of violence
- Verbal abuse
- Racist or sexist language
- Derogatory remarks
- Offensive language

Rudeness
Making inflammatory statements
Raising unsubstantiated allegations
Any form of physical abuse

We do not view assertive behaviour as unreasonable, for example, putting forward your case in a persuasive manner, so long as this does not overstep the line into one of the bulleted behaviours stated above.

Unreasonable requests and communication

Requests may be considered unreasonable either by the nature and/or scale of service expected.

Examples may include:

Requesting a response within unreasonable timescales
Insisting on speaking with certain employees/officers/councillors (all matters should be directed via the Clerk in the first instance, who will route your request to an appropriate/available person)
Adopting a "capture-all" or "scatter gun" approach by contacting many employees, councillors and third parties about the same issue

Communication may be considered unreasonable if, for example, individuals or representatives of organisations:

Continually contact us while we are in the process of looking at a matter
Make a number of approaches about the same matter without raising new issues
Refuse to accept a decision made where explanations for the decision have been given
Continue to pursue complaints/issues which have no substance
Continue to pursue complaints/issues which have already been investigated and determined
Continue to raise unfounded or new complaints arising from the same set of facts

Unreasonable communication through social media

Social media is a rapidly changing area of technology that many parish councils are using to build relationships with new and existing customers/residents. However, this form of communication can sometimes be used to bully and harass employees and councillors. All social media users should adopt the same level of courtesy used when communicating via email, telephone or face to face.

If a member of the public posts a message that may cause offence - or is otherwise unsuitable - about an employee or councillor, the Parish council will do its best to have that post removed from the social media site.

When social media is used inappropriately (e.g., cyber bullying), we will try to identify the offender, take steps to remove the offending material from view and, where appropriate, initiate action against the offender.

Inappropriate content includes:

Pornography
Racial or religious slurs
Gender-specific comments
Information encouraging criminal or terrorism activity
Threats, abuse or personal comments which may be regarded as defamatory

How we will manage unreasonable behaviour

The Parish council has a zero-tolerance position on physical violence, verbal abuse, threats or harassment against our employee and councillors. Any personal assault against its employees or councillors will be reported to the police, who may decide to prosecute.

The decision to invoke this policy and place restrictions on an individual will be taken by the Chairman or in his or her absence, the Vice Chairman. If the complaint relates to an issue of Councillor conduct, it will be referred to the Durham County Council Monitoring Officer.

For individuals whose behaviour has been found to be unreasonable, MHPC has developed a list of possible ways in which their contact with us can be managed or restricted. The options found in Section 3 may be applied as appropriate.

In all cases, the parish council will only place restrictions on an individual if we have informed them their behaviour is unreasonable and have asked them to modify it. We will explain what action will be taken if the warning is ignored. If they fail to modify their behaviour, we will take steps to restrict their communications/contact with us.

If we decide a restriction is appropriate, we will consider which of the options best fits the circumstances. The level of restriction that we apply will be proportionate, taking into account the nature, extent and impact of the unreasonable behaviour.

We will be transparent and will write to the individual to explain what restriction we are putting in place, our reasons for doing so, and how long the restriction will apply.

The restrictions will be in place for a minimum period of 3 months and the review period can be on a 3, 6 or 12 monthly basis. The individual will be informed of the review date in the original explanatory letter.

Section 2: Vexatious or Persistent Complainants

Clarification

An individual can only be described as “vexatious or persistent” if they demonstrate unreasonable behaviour while making (or having made) a formal complaint through our Complaints Procedure.

Dealing with a complaint is usually a straightforward process but, in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated or once the parish council has finished dealing with the complaint.

How we deal with complaints

We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner.

As stated above, complaints regarding the conduct of elected members are dealt with by the Monitoring Officer at Durham County Council

What do we mean by unreasonable behaviour?

Unacceptable behaviour is defined above and can be applied to complainants going through the formal complaints process.

We will not normally limit the contact which complainants have with parish council employees or councillors; however, we do not expect employees or councillors to tolerate unacceptable behaviour by complainants.

We will act to protect employees from unreasonable behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy, which may include invoking one or more of the options detailed in section 3.

Raising 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 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.

Definitions

We have adopted the Local Government Ombudsman's (LGO) definition of "**unreasonable complainant behaviour**" and "**unreasonable persistent complaints**".

We define unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder our consideration of their or other people's complaints.

The description "unreasonably persistent" and "vexatious" may apply separately or jointly to a particular complainant.

Examples include the way or frequency that complainants raise their complaint with employees, or how complainants respond when informed of our decision about the complaint.

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 parish council to investigate, change or influence (examples could be a complaint about something the parish council is not empowered to do or something that is the responsibility of another organisation)

Make an unreasonable number of contacts with us, by any means, in relation to a specific complaint or complaints

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

How we will manage vexatious or persistent complainants

The Clerk will bring to the attention of the Chairman (or Vice Chairman) if a complainant is becoming persistent or vexatious. If appropriate, the matter will be referred to the Parish council 'for review. When a decision has been taken to apply this policy, a warning letter will be sent to the complainant that unless the behaviour changes the policy will be invoked.

If the behaviour persists, the parish council may take the decision to make the individual a vexatious complainant. The Chairman (or Vice Chairman) will contact the complainant in writing to explain:

Why we have taken the decision

What action we are taking (see the list of options in section 3)

The duration of that action

The review process of this policy

The right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as a vexatious/persistent complainant

The Chairman (or Vice Chairman) will enclose a copy of this policy in the letter to the complainant.

Where a complainant continues to behave in a way which is unacceptable, the Chairman (or Vice Chairman), following consultation with the parish council may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of our employees or councillors, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of such action.

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

Review

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Parish council after three months and at the end of every subsequent three months within the period during which the policy is to apply.

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

Referring unreasonably persistent or vexatious complainants to the Local Government Ombudsman

In some cases, relations between parish councils and unreasonably persistent or vexatious complainants break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the Complaints Procedure. Where this occurs, the Ombudsman may be prepared to consider a complaint before the procedure has run its course.

Section 3: Options to Restrict and Manage Contact

If individuals continue to behave unreasonably after we have asked them to modify their behaviour, the options we will consider are:

Option 1:

Requiring you to contact a named employee, usually the Clerk unless this is inappropriate in which case another councillor will be nominated.

Option 2:

Restricting contact (whether via telephone, face to face, or digital) to specified places, days and times, as agreed with you.

Option 3:

Terminating contact if you persistently raise issues to which we have already responded in full, no matter how these contacts are made (e.g., phone, digital, letter).

Option 4:

Terminating contact if you are aggressive, rude, abusive or offensive.

Option 5:

If you have threatened our employees or councillors with physical violence, be it verbal, face to face, in writing or in any other form, we may place a warning marker on any electronic records management system where we hold your records. In addition, the Police will be informed.

Option 6:

Restricting the issues, we will correspond on.

Option 7:

If you send us a large volume of irrelevant documentation, we may return these documents to you and will advise you that further irrelevant documents will be destroyed.

Option 8:

If we have already fully explained our reasons for a decision and you have exhausted the procedure to request a review of that decision, we will decline to respond to further correspondence, which fails to raise new issues.

Option 9:

We will not respond to correspondence (e.g., letter or e-mail) which is abusive or offensive, other than to advise the Vexatious Complaints policy is being invoked. If the material in question is considered to break the law, it will be passed on to the police accordingly.

Option 11:

If you post derogatory, defamatory, offensive or threatening remarks on social media we will ask the site to remove them and try to block your account. We may also reserve the right to refer the matter to the police.

Section 4: Record Keeping and Monitoring of those Subject to the Vexatious Complaints Policy

In accordance with our Data Protection and Retention Policies, adequate records will be retained by the Clerk concerning the details of the case and the action that has been taken where this policy has been invoked. Standard information recorded for all complainants will include:

- The name and address of each person who is treated as abusive, vexatious or persistent and is being managed under this policy
- The name and address of anyone that has been identified as potentially violent towards our staff or parish councillors will be assigned a warning marker on our records management system
- When the restriction came into force and ends
- What the restrictions are
- When the complainant was advised

