

SWANAGE TOWN COUNCIL

VEXATIOUS CORRESPONDENCE AND COMPLAINTS POLICY

Introduction

The great majority of people who contact Swanage Town Council do so politely and with respect to Council employees. The Town Council welcomes feedback and encourages people who feel that they have grounds for complaint to contact the Council so that their concerns can be investigated in accordance with the Council's Complaints Procedure, which is designed to provide complainants with a thorough and fair means of redress.

There are, however, exceptional circumstances where behaviour can present a challenge to the wellbeing of staff or councillors, resulting in unacceptable stress. Furthermore, some correspondence will result in a disproportionate amount of resource being spent in response, preventing the Council from efficiently fulfilling its wider duties.

Swanage Town Council does not expect its staff or councillors to tolerate unreasonable behaviour from members of the public or other points of contact. The organisation has a direct duty of care to its employees and also a responsibility to any associated organisations and/or partners it works alongside.

This procedure is designed to address vexatious correspondence and complaints. It should assist the Council to manage inappropriately demanding or unreasonable behaviour from vexatious correspondents. Where the correspondence in question can be interpreted as a request or requests for information, this policy should be read in conjunction with the Information Commissioner's guidance on dealing with vexatious requests, issued in connection with s.14 (1) of the Freedom of Information Act 2000.

It is important that the application of this policy does not prevent people from accessing services to which they have a statutory entitlement, and it is designed to ensure that the rights of service users are protected. However, Council resources are limited, and the Council has an obligation to ensure that these are used fairly and effectively. The Council must also ensure that the Clerk and Councillors receive a reasonable degree of protection from the stress that can be caused by vexatious correspondence and complaints.

This procedure is not designed to address violent or threatening behaviour which needs an urgent response.

1 Defining vexatious correspondence or complaints

Vexatious complaints and correspondence can be characterised in one or more of the following ways:

1.1 Behaviour which is perceived as obsessive, persistent, harassing, prolific, repetitious.

- 1.2 Displays an insistence on pursuing unmeritorious issues and/or unrealistic outcomes beyond all reason.
- 1.3 Displays an insistence upon pursuing meritorious complaints or issues in an unreasonable manner, for example failing to focus on addressing the issue in a harmonious and pragmatic way.
- 1.4 Forms part of a 'scatter gun' approach, with copies of letters being sent to several recipients on a regular basis, often including various council officers, the media, the MP, the Mayor, other Councillors and external regulators; and/or is part of a completely random approach, lacking any clear focus, or seeming to have been solely designed for the purpose of 'fishing' for information without any idea of what might be revealed.
- 1.5 Repeated and/or frequent requests for information, whether or not those requests are made under the access to information legislation.
- 1.6 Repeated use of social media to criticise Council members or officers could also be judged as vexatious conduct, as this could amount to cyber-bullying.

Guidance issued by the Information Commissioner recommends that four broad themes are considered when assessing whether a request for information is vexatious, and these factors may be more broadly applied to other correspondence:

1. the burden (on the public authority and its staff);
2. the motive (of the requester);
3. the value or serious purpose (of the request); and
4. any harassment or distress (of and to staff and councillors).

2 Procedure for determining whether correspondence is vexatious

- 2.1 If the Clerk or Councillors identify behaviour that they think exhibits the characteristics set out in Section 1, and which they believe may be vexatious, they should consult the Vexatious Correspondence sub-committee, consisting of the Mayor and/or Deputy Mayor and two members of the Finance & Governance Committee. An officer who has not been dealing with the correspondence in question should act as minute taker.
- 2.2 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 vexatious, including its effect upon the Clerk, Councillors and/or the Town Council as a corporate body. This should be accompanied by a list of correspondence over the last 6 months via email, telephone, letter and social media, 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.

3 Handling correspondence and complaints that have been assessed as vexatious

- 3.1 The first step will be for the Mayor/Deputy Mayor to write to the correspondent advising them that their complaint and/or correspondence has been determined to be vexatious

and giving the reason for that decision. The letter should state that any future correspondence will be passed direct to the sub-committee who will consider whether it raises any substantive new issue(s) and whether or not it is also considered vexatious. The correspondent should be advised that if it is considered to be vexatious, any future correspondence will not receive a response, unless the Council is obliged to do so under the terms of the Freedom of Information Act or other legislative provision. They should be advised that the decision will be reviewed in six months from the date of the letter advising them that their complaint/correspondence has been determined to be vexatious. There is no route of appeal against the decision that a complaint or correspondence is vexatious.

- 3.2 Any future correspondence should be passed to the sub-committee for consideration. If they decide that it raises no genuinely new and substantive issues, and/or is considered to be otherwise vexatious, 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 vexatious. After that, however, no response or acknowledgement should be sent.
- 3.3 If future correspondence does raise significant new issues, and does not meet the criteria for vexatious correspondence set out in Section 1 above, it should be responded to. It may be appropriate for the response to be routed via the Mayor/Deputy Mayor in order to prevent the renewal of 'scattergun' correspondence.

4 Reviewing the decision

- 4.1 Six months after the correspondent has been advised that their complaint and/or correspondence is vexatious, they can request a review. If such a request is received, the sub-committee should meet to consider whether there has been any improvement in the vexatious behaviour over that time. The Mayor/Deputy Mayor 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 vexatious with the correspondent being able to request a review after a further six month period.

5 Further advice and guidance

- 5.1 Defining complaints and/or correspondence as vexatious is a very serious step and will only be undertaken as a last resort. For that reason, it is essential that the decision to treat correspondence or complaints as vexatious is evidence-based and reviewed regularly.

For further information:

Information Commissioner's Office:

<https://ico.org.uk/for-organisations/foi-eir-and-access-to-information/freedom-of-information-and-environmental-information-regulations/section-14-dealing-with-vexatious-requests/>

Local Government and Social Care Ombudsman:

<https://www.lgo.org.uk/information-centre/information-for-organisations-we-investigate/councils/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour>

5.2 Any concerns about a particular correspondent should be discussed with the Mayor/Deputy Mayor in the first instance.

6 Document change history

Date	Changes made
2 nd February 2024	Template policy amended for Swanage Town Council.
20 th March 2024	Draft Policy presented to Finance & Governance Committee for recommendation to adopt.
	Policy adopted by Full Council.
	Policy review date (initially 6 monthly)