



BOGNOR REGIS TOWN COUNCIL FREEDOM OF INFORMATION VEXATIOUS REQUESTS POLICY

Adopted by the Council at its Meeting held 11th January 2016

Bognor Regis Town Council

Freedom of Information Vexatious Requests Policy

1. INTRODUCTION

- 1.1 Bognor Regis Town Council is committed to openness and will make every effort to respond positively to a request for information made under the Freedom of Information Act 2000.

It is recognised that on occasions Bognor Regis Town Council will receive requests that may be defined as repeated, vexatious or manifestly unreasonable. The relevant legislation being the Freedom of Information Act 2000 and the Data Protection Act 1998 allows for requests to be classed under these headings in order to prevent abuse of the public's right to know.

The Information Commissioner has recognised that there may be a risk that some individuals and perhaps some organisations may seek to abuse the right of access with requests. Such cases may well arise in connection with a grievance or complaint that an individual is pursuing.

In all cases that are considered possibly vexatious, repeated or manifestly unreasonable, Bognor Regis Town Council will undertake an assessment to determine if it is acceptable to define the request under one of those headings.

- 1.2 This policy identifies situations where a requester, either individually or as part of a group, or a group of requesters, might be considered to be habitual or vexatious. The following clauses form the Council policy for ways of responding to these situations.
- 1.3 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.
- 1.4 The term requester in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998.
- 1.5 Habitual or vexatious requests can be a problem for Council staff and Members. The difficulty in handling such requests 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 requesters there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.
- 1.6 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 requester. Similarly, the fact that a complainant is unhappy with the outcome of a request and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.

- 1.7 The purpose of this policy is to contribute to the overall aim of dealing with all requesters in ways which are demonstrably consistent, fair and reasonable.

In all cases the Council will strive to comply with the guidance given by the Information Commissioner's Office and should any matters arise from the implementation of the policy which are at variance with that guidance the Council will amend its policy accordingly.

2. HABITUAL OR VEXATIOUS REQUESTS

- 2.1 A request is likely to be considered as vexatious or manifestly unreasonable if it is considered to be a substantial burden on the financial and human resources of Bognor Regis Town Council and it:

- clearly does not have any serious purpose or value;
- is designed to cause disruption or annoyance;
- has the effect of harassing the Council; or
- can otherwise fairly be characterised as obsessive or manifestly unreasonable. In all cases it is the **request** that has to be vexatious or manifestly unreasonable, not the applicant. This can sometimes be a difficult distinction to draw, but a useful test is to consider whether the information would be supplied if another person who was unknown to Bognor Regis Town Council had requested it. However, the council is able to take into account previous communications with, and any known intentions of, the applicant when making this assessment.

- 2.2 For the purpose of this policy the following definitions of habitual or vexatious requests will be used:

The repeated and/or obsessive pursuit of:

(1) unreasonable requests and/or unrealistic outcomes;

and/or

(2) reasonable requests in an unreasonable manner.

- 2.3 Prior to considering its implementation the Council will send a *summary* of this policy to the requester to give them prior notification of its possible implementation.
- 2.4 Where requests continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the staff and Policy and Resources Committee will seek agreement to treat the request as a vexatious request for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious requests.
- 2.5 The Clerk on behalf of the Town Council will notify requesters, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken.

3. DEFINITIONS

- 3.1 Bognor Regis Town Council defines unreasonably persistent and vexatious requests as those requesters who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their or other people's requests. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular requester.

3.2 Examples include the way in which, or frequency with which, requesters raise their requests with staff or how requesters respond when informed of the Council's decision about the request.

3.3 Features of an unreasonably persistent and/or vexatious request include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the request will be considered as being in this category):

An unreasonably persistent and/or vexatious requester may:

- refuse to co-operate with the request investigation process while still wishing their request to be answered
- 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 good practice (e.g. insisting that there must not be any written record of the request)
- make what appear to be groundless complaints about the staff dealing with the request, 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 request or requests
- make persistent and unreasonable demands or expectations of staff and/or the request process after the unreasonableness has been explained to the requester (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 request, in relation to their request by use of foul or inappropriate language or by the use of offensive and racist language or publish their request in other forms of media
- introduce trivial or irrelevant new information whilst the request is being investigated and expect this to be taken into account and commented on
- deny statements he or she made at an earlier stage in the request process
- are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved.
- adopt a 'scattergun' approach, for instance, pursuing a request or requests 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
- make the same request repeatedly, perhaps with minor differences.
- persistently approach the Council through different routes or other persons about the same issue.
- refuse to accept documented evidence as factual

3.4. In all cases Bognor Regis Town Council will undertake the assessment of requests that are considered to be vexatious on a case by case basis. The Town Clerk will undertake the

assessment in most cases. Complex cases may be referred to the Council's Local Government solicitor or other adviser.

If there is uncertainty as to whether a request is vexatious Bognor Regis Town Council will consider one of the following actions:

- Contact the applicant and ask him or her to clarify the request.
- Comply with the request and reduce the chances of a more time-consuming grievance developing between the applicant and the Council, providing an explanation that future requests may be assessed under this policy.
- Refuse a request and provide an explanation of the reason for refusal and make reasonable endeavours to explain to the applicant what they should do differently in future to ensure their requests are not assessed as being vexatious.

4. REPEATED REQUESTS

- 4.1. Where a request for information has previously been complied with which was made by any person, there is no obligation to comply with a subsequent identical or substantially similar request from that same person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request. A repeated request does not mean similar or identical requests from different applicants, unless those applicants have been identified as working together.

Bognor Regis Town Council has defined a reasonable interval as 60 working days from responding to the previous request.

On some occasions Bognor Regis Town Council will process requests as standard requests that appear to repeat a previous request, for example, this may be in a situation when a repeated request is received and it is for information that is regularly updated.

5. CUSTOMER EXPECTATIONS

Applicants will be issued with a refusal notice to inform them of the decision to define their request as vexatious, repeated or manifestly unreasonable within the 20 working day deadline. They will be provided with an explanation of the factors that have led to the decision.

Repeated requesters will receive one such notice. In most cases, any repeated requests received after this notice has been issued will be acknowledged but Bognor Regis Town Council will undertake no further correspondence relating to the matter, unless the applicant wishes to appeal against our decision. In some cases repeated requests may cease to be acknowledged.

6. RECORD KEEPING

- 6.1 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.
- Maintenance of an evidence log to record any relevant correspondence and behaviour sufficient to support the decision should the requester complain to the Information Commissioner.
- When and how the requester and Council were advised.

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

7. APPEALS

All applicants have the right to appeal against any decision to refuse their request. In the first instance such appeals may be made under the Bognor Regis Town Council Complaints Procedure and the complaint on the first occasion will be treated as a request for an internal review of a refusal.

Any person who is unhappy with the way their request has been dealt with and is not satisfied by the investigation undertaken through the Council's complaint procedure may wish to make a complaint to the Information Commissioner's Office under section 50 of the Freedom of Information Act 2000. Complaints to the ICO should be sent to:

Information Commissioner's Office.
Wycliffe House
Water lane
Wilmslow
Cheshire SK9 5AF