

## Abusive, unreasonable and vexatious complaints policy

### SUMMARY

This document sets out the council's policy on dealing with abusive, unreasonable or vexatious complaints. The policy is intended to support the council's complaints procedure. It is also intended to help us to protect our staff, in line with our duty of care as an employer.

### Introduction

1. Dealing with a complaint is a straightforward process covered by the Council's complaints procedure, but in a minority of cases people pursue their complaints in a way that is abusive to staff or can either impede the investigation of their complaint or have significant resource issues for the council. This can happen either as part of making the complaint, while their complaint is being investigated, or once the council has finished dealing with the complaint.

2. If this occurs as part of the making of a statutory or corporate complaint, the incident will be dealt with using this policy.

3. We will not normally limit the contact which complainants have with council employees. It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It must be recognised that people may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.

4. We do not expect staff to tolerate abusive, vexatious or unacceptable persistent behaviour by complainants. Where a person's behaviour threatens the immediate safety and welfare of staff, a decision will be taken to place that person on the council's Potentially Violent Persons Register (PVPR). Abusive, vexatious or unacceptable persistent behaviour in the context of the PVPR is defined as conscious, deliberate or malicious acts of violent, aggressive or abusive behaviour towards Council employees including physical assault. The following behaviours will not be tolerated and apply to all of the access channels including: telephone, face to face, email, web form and social media:

- Using abusive or foul language
- Multiple contact to the service
- Physical assault

5. 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 an unreasonably persistent complainant.

6. Even where an applicant displays abusive, vexatious or unacceptable persistent behaviour they can still make requests for information. These will be assessed according to the relevant access to information legislation, and there are grounds within the Freedom of Information Act to declare a request as vexatious in certain conditions.<sup>1</sup>

7. 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. The principles outlined in paragraph 10 must be applied.

#### **Abusive, unreasonably persistent and/or vexatious definitions**

8. The Council defines abusive, vexatious or unreasonably persistent 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 'abusive', 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.

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

10. Features of an abusive, unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, one single feature on its own does not necessarily mean the person will be considered as being in this category):

An abusive, 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 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 (e.g. staff disciplinary issues; policy decisions);
- refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation);
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, 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 us, 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 numerous, frequent and/or complex letters, faxes, telephone calls or emails);
- 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 language;
- 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;
- 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 about the same issue;
- persist in seeking an outcome which we have 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 a historic (more than a year old) and irreversible decision or incident;
- have knowingly recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.

### **Imposing restrictions**

11. We will seek to ensure that the complaint is being, or has been, investigated properly according to the Council's complaints procedure if possible. In the case of an abusive complainant, we may refrain from investigating the complaint until such time as the complainant stops the abusive behaviour.

12. In the first instance the officer will consult with the Town Clerk prior to issuing a warning to the complainant. The Town Clerk will contact the complainant either in writing, by phone or face to face to explain why this behaviour is causing concern, and ask them to change this behaviour. If a complainant has a disability, reasonable adjustments will be made if necessary. The Town Clerk will explain the actions that the council may take if the behaviour does not change. All telephone or face to face conversations will be documented.

13. If the abusive, vexatious or persistent unacceptable behaviour continues, the Town 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 Town Clerk will make this decision and inform the complainant in writing of what restrictions have been put in place and for what period.

14. Any restriction 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 the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis. Any entry onto the Potentially Violent Person's Register will be for 12 months, any repeat instance of violence or aggression within the PVPR timeframe will result in a reset of the PVPR entry, effectively resetting the entry for a further 12 months.

15. 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. councillor/friend acting on their behalf;
- banning the complainant from using some council buildings to access services;
- banning the complainant from accessing any council building except by appointment agreed by relevant service manager;

- requiring contact to take place with one nominated single point of contact;
- restricting telephone calls to specified days / times / duration;
- requiring any personal contact to take place in the presence of an appropriate witness and/or advising that the conversation will be recorded;
- letting the complainant know that we 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 should be identified who will read future correspondence);
- in extreme circumstances, the Council may involve the Police. Where this is the case, the complainant will be advised that this is the course of action that the Council is taking and why. Examples include:
  - abusive and threatening behaviour
  - physical abuse
  - refusal to leave the premises

16. When the decision has been taken to apply this policy to a complainant, the Town Clerk will contact the complainant in writing (and/or as appropriate) to explain:

- why we have taken the decision;
- what action we are taking;
- the duration of that action;
- the review process of this policy

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

18. Where a complainant continues to behave in a way which is unacceptable, the Town Clerk, in consultation with the Council's Legal advisors, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

19. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Town Clerk after three months and at the end of every subsequent three months within the period during which the policy is to apply. During this period an integrated restorative practice approach will be considered to try and find a positive way forward for all parties involved.

20. 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.

21. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, 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 that action. In those cases the complainant will be put on the Potentially Violent Persons Register for a minimum of 12 months.

#### **New complaints from complainants who are treated as abusive, vexatious or persistent**

22. New complaints from people who have come under this policy will be treated on their merits. The Town Clerk will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a 'blanket policy' of ignoring genuine service requests or complaints where they are founded.

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<sup>i</sup> See 'Dealing with vexatious request (section 14)', Information Commissioner's Office, here: <https://ico.org.uk/media/for-organisations/documents/1198/dealing-with-vexatious-requests.pdf>

**VERSION CONTROL:**

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