

Norton on Derwent Town Council

Dealing with Abusive, Persistent or Vexatious Complaints Policy

Introduction

1. The Council are committed to dealing with all complaints equitably, comprehensively, and in a timely manner. The Council will not normally limit the contact which complainants have with Council staff. However, the Council do not expect staff to tolerate unacceptable behaviour by complainants or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening and may include:
 - Using abusive or foul language on the telephone
 - Using abusive or foul language face to face
 - Sending multiple emails
 - Leaving multiple voicemails
 - Sending multiple communications
2. The Council will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, the Council will follow this policy.
3. Dealing with a complaint can be 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 Council has finished dealing with the complaint.
4. 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.
5. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.
6. This policy also applies to complainants who are complaining to councillors who are acting as members of the Council.

Aim of this Policy:

7. The aim of this Policy is to contribute to our overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable. It sets out how the Council will decide which complainants will be treated as vexatious or unreasonably persistent, and what the Council will do in those circumstances. The policy is for the information of staff and Councillors, as well as complainants.

Definitions:

The Council defines 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 of Unreasonably Persistent and/or Vexatious Behaviours:

8. This list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category
- 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, subject to informal resolution of issues where appropriate.
 - 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 both.
 - Refuse to accept that issues are not within the power of the Council to investigate, change or influence (for example something that is the responsibility of another organisation).
 - Insist on the complaint being dealt with in ways which are incompatible with the complaint's 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 (e.g. a complainant who insists on immediate responses to numerous, frequent and/or complex letters, 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 and racist language.
 - Raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process.
 - Introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on.
 - Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
 - Deny statements they made at an earlier stage in the complaint process.
 - Electronically record meetings and conversations without the prior knowledge and consent of the other person involved.
 - Adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the council, but at the same time with a Member of Parliament, other councils, elected councillors of this and other councils, the council's independent auditor, the police, solicitors, Information Commission Office and the Local Government Ombudsman.
 - 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 complaint's procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaint's procedure.
 - Persistently approach the council through different routes about the same issue.
 - Persist in seeking an outcome which the Council 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 and irreversible decision or incident.
 - Combine some or all of these features.

Managing Unreasonably Persistent and/or Vexatious Complainants:

9. Before any action is taken, the Town Clerk will ensure that the complaint is being, or has been, investigated properly according to the Council's agreed Complaints Procedure. When a complainant begins to demonstrate behaviours such as listed above, the Town Clerk will consult with the Chair and Vice Chair. The Town Clerk will provide sufficient information to them for them to determine whether the complaint fulfils the definition as shown above.
10. If it is agreed that the complaint fulfils the definition the Clerk will issue a warning to the complainant about their behaviours. The Town Clerk will contact the complainant either by phone, in writing or by email to explain why this behaviour is causing concern and ask them to change this behaviour. The Town Clerk will explain the actions that the Council may take if the behaviour does not change.
11. If the disruptive 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 us in future will be restricted.
12. If following this letter, the behaviour continues the Town Clerk will inform the Chair and Vice Chair. They will then determine what restrictions are to be imposed on the complainant and for how long. This will be communicated to the complainant in writing.
13. Any restriction that is 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 an annual basis.
14. In the event of the Chair being actively involved in investigating a complaint under the Complaints Policy, the consultation and decision-making process will fall to the Vice Chair.
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. solicitor/councillor/friend acting on their behalf.
 - Banning the complainant from sending emails to individuals and/or all Council officers and insisting they only correspond by letter.
 - Banning the complainant from using any of the Council's services.
 - Banning the complainant from accessing any Council building except by appointment.
 - Requiring contact to take place with one named member of staff only.
 - Restricting telephone calls to specified days / times / duration.
 - Requiring any personal contact to take place in the presence of an appropriate witness.
 - Letting the complainant know that the Council 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, this will usually be the Town Clerk)
16. When the decision has been taken to apply this policy to a complainant, the Town Clerk will contact the complainant in writing to explain:
 - Why the Council have taken the decision,
 - What action the Council are taking,
 - The duration of that action,
 - The review process of this policy, and
 - The Town Clerk will enclose a copy of this policy in the letter to the complainant.

17. Where a complainant continues to behave in a way which is unacceptable, the Town Clerk, in consultation with the Chair and Vice Chair may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
18. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the Council will consider other options, for example reporting the matter to the Police or taking legal action. In such cases, the Council may not give the complainant prior warning of that action.

New Complaints from Complainants who are Treated as Abusive, Vexatious or Persistent:

19. 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. The Council do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.
20. The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with them, will be recorded and notified to those who need to know within the Council.

Review:

21. 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. 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.

Record Keeping:

22. Adequate records will be retained by the Town Clerk of the details of the case and the action that has been taken. The Town Clerk will retain a record of:
 - The name and address of each person who is treated as abusive, vexatious or persistent.
 - When the restriction came into force and ends.
 - What the restrictions are.
 - When the complainant and staff were advised.
 - The Town Clerk will provide an annual report giving information about customers who have been treated as vexatious/persistent as per this Policy to Council.

Adopted 21st February 2022, Minute 152. (Review date February 2025)