

Policy on Unreasonably Persistent and/or Vexatious Complainants
(to be read in conjunction with guidelines at the end of this section)

1. Introduction

- 1.1 Generally, dealing with a complaint is 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.
- 1.2 If a complainant behaves in a way that is unreasonably persistent or vexatious, the Council will follow this policy.

2. Principles

- 2.1 The Council is committed to dealing with all complaints equitably, comprehensively, and in a timely manner.
- 2.2 The Council does not normally limit the contact which complainants have with member of staff/councillor
- 2.3 The Council does not expect member of staff/councillor to tolerate unacceptable behaviour by complainants or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening. The Council will take action to protect member of staff/councillor from such behaviour.

3. Aim of this policy

- 3.1 The aim of this policy is to contribute to the Council's overall aim of dealing with all complainants in ways which are demonstrably consistent and equitable.
- 3.2 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.
- 3.3 The policy is for the information of member of staff/councillor and customers and should be read together with the guidelines.

4. Definition

- 4.1 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 the Council's consideration of their or other people's complaints. The descriptions 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 4.2 There is a difference between 'persistent' complainants and 'unreasonably persistent' complainants. The guidelines which accompany this policy give examples of 'unreasonable' and 'vexatious' behaviour to help member of staff/councillor determine this difference. Examples include the way or frequency that complainants raise their complaint with member of staff/councillor, or how complainants respond when informed of the Council's decision about the complaint.
- 4.3 There is a difference between 'unreasonably persistent' and 'vexatious' complainants. A vexatious person in this context is someone who is not seeking to resolve a dispute between themselves and the Council but is seeking to cause unnecessary aggravation or annoyance to the Council.
- 4.4 Unreasonably persistent complainants or vexatious complainants may have justified complaints or grievances but are pursuing them in inappropriate ways. Alternatively, they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and settled. Their contacts with the Council may be amicable but still place very heavy demands on member of staff/councillor time, or they may be distressing for all involved.

5. Decision

- 5.1 Before making the decision to apply this policy, some or all of the following steps may be taken:
 - a) The Council will ensure that the complaint is being, or has been, investigated properly according to the corporate complaints procedure.
 - b) Although each complaint is unique, the Council will deal with the complaint in line with other complaints of a similar nature in order to apply a consistent approach.
 - c) The Council will contact the complainant to:

- i. discuss his or her behaviour,
 - ii. explain why this behaviour is causing the Council concern,
 - iii. ask him or her to change this behaviour, and
 - iv. explain about the actions that the Council may take if his or her behaviour does not change.
- d) If the complainant has not already had a meeting about the complaint with a member of staff or councillor, and provided that the Council knows nothing about the complainant which would make this inadvisable, the Council will consider offering the complainant a meeting with a member of staff or councillor of appropriate seniority. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution.
- e) Further guidance is set out in the accompanying guidelines.

5.2 The decision to apply this policy will be an exceptional step, and will be taken by a committee of senior councillors

6. Actions

- 6.1 Any restriction that is imposed on the complainant's contact with the Council will be appropriate and proportionate. The options we are most likely to consider are included in the guidelines.
- 6.2 When the decision has been taken to apply this policy to a complainant, the Council will contact the complainant in writing (and/or as appropriate) to explain:
- a) why the Council has taken the decision,
 - b) what action the Council is taking,
 - c) the duration of that action,
 - d) the review process of this policy, and
 - e) the right of the complainant to contact the Local Government Ombudsman.
- 6.3 The Council will enclose a copy of this policy, and the guidelines which accompany it in the letter to the complainant, or if it is necessary that contact with the complainant is not primarily in writing, the Council will offer appropriate support to explain the policy and guidelines to the complainant.
- 6.4 Where a complainant continues to behave in a way which is unacceptable, the Council may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- 6.5 Where the behaviour is so extreme that it threatens the immediate safety and welfare of member of staff/councillor, 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.
- 6.6 New complaints from people who have come under this policy will be treated on their merits and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.
- 6.7 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on the Council's contact with him or her, will be recorded and notified to those who need to know within the Council. Information about the complaint will not normally be included in such notification. For further information please refer to the guidelines.

7. Review

- 7.1 The status of the complainant judged to be unreasonably persistent or vexatious will be reviewed by Council after six months and at the end of every subsequent six months within the period during which the policy is to apply (see paragraph 6.2 (c)).
- 7.2 The complainant will be informed of the result of this review if the decision to apply this policy to him or her has been reversed earlier than expected.

8. Referring unreasonably persistent or vexatious complainants to the Local Government Ombudsmen

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

Guidelines on Unreasonably Persistent and/or Vexatious Complainants

1. Introduction

- 1.1 The Council must expect pressure from its customers if they believe that the Council has failed in its service to them or there have been unacceptable delays in the progress of their complaints. Such pressure may be persistent, and in many circumstances, this is reasonable and acceptable.
- 1.2 However, if a complainant behaves in a way that is unreasonably persistent and/or vexatious, the Council will follow its policy on unreasonably persistent and/or vexatious complainants. These guidelines accompany that policy.

2. Features of an unreasonably persistent and/or vexatious complainant (paragraph 4.2 of the policy refers to this section)

- 2.1 The following list describes some of the features of a complainant who may be unreasonably persistent and/or vexatious. The 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. The list merely includes examples of the behaviour and actions that the Council experiences, either individually or in combination. An unreasonably persistent and/or vexatious complainant may:
 - a) 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)
 - b) refuse to specify the grounds of a complaint despite offers of assistance with this from the Council
 - c) refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
 - d) 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) 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)
 - f) 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, despite offers of assistance with this from the Council)
 - g) make what appear to be groundless complaints about the member of staff/councillor dealing with the complaints, and seek to have them dismissed or replaced
 - h) make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint or complaints (it is impracticable to suggest a number in these guidelines, so Council must use its own judgement to determine what an unreasonable number is in any one case)
 - i) make persistent and unreasonable demands or expectations of Council, staff and/or the complaints process after the unreasonableness has been explained in writing (or in another appropriate form) 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)
 - j) harass or verbally abuse or otherwise seek to intimidate member of staff/councillor dealing with their complaint, or their families, in relation to their complaint
 - k) 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
 - l) introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
 - m) change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
 - n) deny statements he or she made at an earlier stage in the complaint process
 - o) electronically record meetings and conversations without the prior knowledge and consent of the other person involved

- p) 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 Standards Board, the police, solicitors, and the Local Government Ombudsman
- q) 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
- r) 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
- s) persistently approach the Council through different routes about the same issue
- t) persist in seeking an outcome which the Council has explained is unrealistic for legal or policy (or other valid) reasons
- u) refuse to accept documented evidence as factual
- v) complain about or challenge an issue based on a historic and irreversible decision or incident
- w) combine some or all of these features

3. Being reasonable

- 3.1 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.
- 3.2 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.
- 3.3 The Council will offer the complainant appropriate support, as it would any other customer.
- 3.4 It may be helpful to both parties if the complainant has an advocate. If he or she feels that they would like an advocate, the Council must consider offering to help find an independent one.
- 3.5 If he or she has specific needs, the Council will offer relevant support, including, if appropriate, help with finding an advocate. There are specialist bodies (such as the Royal National Institute for the Blind, Cornwall Advocacy, Age Concern, and Language Line) which the Council can contact for advice and help.

4. Decision-making (also see section 5 of the policy)

- 4.1 The decision to declare a complainant as unreasonably persistent and/or vexatious should be made by The Chair and a group of senior councillors who have not been directly involved in the complaint or with the complainant. They should make a written note of the considerations and decisions.

5. Options to restrict a complainant's contact with the Council, and other actions

- 5.1 The options the Council is most likely to consider are:
 - a) requesting contact to be in a particular form (for example, letters only)
 - b) requiring contact to take place with one named member of member of staff/councillor only
 - c) restricting telephone calls to specified days / times / duration
 - d) requiring any personal contact to take place in the presence of an appropriate witness
 - e) letting the complainant know that the Council will not reply or acknowledge any further contact from him or her on the specific topic of that complaint (in this case, a designated member of staff/councillor should be identified who will read future correspondence)
 - f) banning a complainant from one or more Council premises
- 5.2 These options are not exhaustive and often local or other factors will be relevant in deciding what might be appropriate action. For instance, any arrangements for limiting a complainant's contact must take account of the complainant's individual circumstances, bearing in mind such issues as age, disability, gender, race and religion or belief.

6. Actions after a complainant has been judged to be unreasonably persistent or vexatious (also see section 6)

- 6.1 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on the Council's contact with him or her, will be recorded and:
- a) held on file
 - b) personal details about the complainant and about the complaint will be managed and stored appropriately in line with data protection and records management principles and procedures.