

Leigh-on-Sea Town Council

VEXATIOUS AND PERSISTENT COMPLAINANTS POLICY

1. Introduction

- 1.1 Leigh-on-Sea Town Council (the Council) is committed to dealing with all complaints fairly and impartially and to providing a high-quality service. Most complainants interact in a polite and reasonable manner; however, during the course of normal business the Council receives a small number of unreasonably persistent or vexatious complaints. Whilst small in number these can take up a disproportionate amount of officer time which can impact upon the delivery of services for other users or result in unnecessary costs for Council taxpayers.

2. Purpose

- 2.1 The purpose of this document is to provide staff with a framework on how to manage vexatious and persistent complaints in a consistent and professional manner.

The guidance identifies:

- Situations where the behaviour of a complainant, either individually or as part of a group, may be considered to be vexatious or unreasonably persistent;
- What action can be taken to stop or curtail this behaviour;
- Considerations before action is taken;
- Who can decide to implement such action;
- How to implement the action;
- What can the complainant do to challenge the decision of the Council.

3. Definitions of Vexatious and Persistent Complainants

For the purpose of this guidance the terms are defined as:

Persistent: The frequency or nature of their contacts with the Council is unreasonable and hinders the Council's consideration of their or other peoples' complaints

Vexatious: A vexatious person in this context is someone who is not seeking to resolve a dispute between themselves and the Council but rather is seeking to cause unnecessary and unjustifiable aggravation or annoyance to the Council or is causing distress to staff

4. Behaviours that may be deemed to be vexatious

- 4.1 Some examples of behaviours that may be considered to be unacceptable are set out below. This is not an exhaustive list, but complainants or anyone acting on their behalf could be deemed to be vexatious or unreasonably persistent if one or more of the following behaviours apply to them:

- a. Refuse to specify the grounds of a complaint despite offers of assistance with this from the Council;
- b. Refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- c. Refuse to accept that issues are not within the remit of the Complaint's Procedure despite having been provided with information about the scope of the policy and procedure;
- d. Refuse to accept that issues are not within the power of the Council to investigate, change or influence i.e. something that is the responsibility of another organisation;
- e. Insist on the complaint being dealt with in ways which are incompatible with the Complaint's Procedure or with good practice (insisting, for example, that there must not be any written record of the complaint, despite offers of assistance with this from the Council);

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- f. Persistently make malicious unfounded allegations or complaints about staff and seek to have them dismissed or replaced;
- g. Make unnecessary excessive demands on the time and resources of staff whilst a complaint is being investigated by, for example, excessive telephoning or sending emails to numerous Council staff, writing lengthy complex letters every few days and expecting or demanding immediate responses;
- h. Continually raises subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process;
- i. Introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on;
- j. Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed and/or deny statements he or she made at an earlier stage in the complaint process;
- k. Electronically record meetings and conversations without the prior knowledge and consent of the other person involved;
- l. Submits falsified documents from themselves or others;
- m. Adopt an excessively 'scattergun' approach, for instance, pursuing the same complaint or complaints with the Council, but also 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;
- n. Refuse to accept the outcome of the complaint process after its conclusion, continuing to argue a point or continuing to complain about the outcome and/or denying that an adequate response has been given;
- o. 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 that should be put through the full complaint's procedure;
- p. Persistently approach the Council through different routes about the same issue;
- q. Persist in seeking an outcome which the Council has explained is unrealistic for legal (or other valid) reasons;
- r. Refuse to accept documented evidence as factual;
- s. Persist with a complaint when they have already had the issue independently assessed by an external body such as the LGO, Planning Inspectorate, Magistrates' Court or Information Commissioner.

4.2 Raising legitimate queries or criticisms of the Complaint's Procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as an unreasonably persistent complainant. 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 unreasonably persistent.

5. What actions can be taken to stop or curtail the behaviour?

- 5.1 The options the Council is most likely to consider are:
- a. Placing time limits on the number and duration of contacts with staff per week or month;
 - b. Offering a restricted time slot for necessary calls;
 - c. Limiting the complainant to one medium of contact (letter, email etc) and/or requiring contact to take place with one named member of staff only;
 - d. Requiring any personal contact to take place in the presence of an appropriate witness and in a suitable location;
 - e. Refusing to register and process further complaints about the same matter;
 - f. Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters or emails, or ultimately informing the complainant that future correspondence will be read and placed on file but not acknowledged. A designated officer should be identified who will read future correspondence.

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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.

The Council has a duty of care for all its residents and is mindful that a complainant may be deemed as vulnerable as defined by the Care Act 2014, ie. a person who may be in need of extra support because they are elderly or have a learning disability, physical disability, sensory impairment or mental health illness.

In such circumstances the Council will ensure the individual is supported by an advocate. This may be a trusted friend or relative or by an independent advocacy service.

6. Considerations prior to taking action

- 6.1 Staff should use considerable judgement and discretion based on the evidence available before recommending or confirming persistent or vexatious status and in deciding the action to be taken.
- 6.2 Records should be maintained to support and justify the decision to register a person as a persistent and/or vexatious complainant. This may include recording the hours or time spent dealing with the individual and the attempts made to resolve the matter with the complainant.
- 6.3 If the complaint is on-going: maintain contact with the complainant and decide whether to nominate a key officer as a single point of contact.
- 6.4 If the complaint is concluded: if the complainant is refusing to accept that either the investigation into their complaint is concluded, or that the matter does not fall under the jurisdiction of the Council, consider the option of ceasing communication with the complainant on the matter unless new information is made available.
Note: the complainant should be made aware of their right to refer the complaint to the Local Government Ombudsman.
- 6.5 The procedure should only be invoked and implemented in exceptional circumstances. It should be initiated only after it has been confirmed that all other avenues have been explored and an amicable resolution between the Complainant and the Council cannot be reached.
- 6.6 If the complainant has not already had a meeting about the complaint with staff and provided that the Council knows nothing about the complainant which would make this inadvisable, the Council could consider offering the complainant a meeting with a member of staff or appropriate seniority. This guidance does not compel the Council to hold such a meeting, although it is recognised that on occasions such meetings can help clarify the situation and help resolve a complaint.

7. Who can decide to implement action?

- 7.1 The Town Clerk and Chair of the Council will consider the matter.

There is a need to carry out an assessment process balancing the rights of the individual, the statutory requirements regarding the service and the Council's responsibilities towards the staff.

- 7.2 If it is agreed that there is no alternative but to take action and to restrict contact with the complainant the following record will be made:
 - a. The nature of the complaint;
 - b. What steps have been taken to resolve the issue;
 - c. Why restrictive action is being considered for the complainant;
 - d. The precise nature of the restrictive action;
 - e. A date or period when this action will be reviewed
- 7.3 This will be reported at the next Council meeting.

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8. How do we implement the action?

- 8.1 Once a decision is taken to apply the policy, the Town Clerk will write to inform the complainant that:
- A decision has been taken;
 - Why it has been taken;
 - What it means to their contact with the Council;
 - How long the restrictions will last;
 - What the complainant can do to have the decision reviewed

A copy of the policy should be included with the letter.

- 8.2 The Town Clerk will review any future correspondence from the complainant, whether this relates to an exiting issue or should be considered as a new complaint. In the case of a new complaint it will be for the Town Clerk to decide whether any restrictions which have been applied before are still appropriate and necessary.

9. Recording our actions

- 9.1 Copies of all contacts with the complainant should be kept by the Town Clerk, including the action notification letter.

10. Reviewing the status of a vexatious and persistent complainant

- 10.1 Once a decision to restrict contact with the complainant has been made it will not normally be reviewed until close to the agreed expiry date.
However, if a complainant demonstrates a more reasonable approach or they submit a further complaint for which the normal Council Complaint's Procedure appears reasonable, their status may be reviewed sooner than the expiry date.
- 10.2 The status of the complainant should be reviewed by the Town Clerk and the Chair of the Council.
- 10.3 When a review has taken place, the Town Clerk will record the following:
- The original reason for registration as a vexatious and/or persistent complainant;
 - What restrictions have been in place;
 - The behaviour of the complainant since registration;
 - If restrictive action is to be continued;
 - What further action will be taken
- 10.4 Once the process is completed the Town Clerk should write to advise the complainant of the outcome and if restrictions are to continue and to be applied, include a date for the next review.

11. How can the complainant challenge the Parish Council's decision?

- 11.1 If the complainant wishes to challenge the Council's initial decision to apply sanctions or restrictions or about the subsequent review or the way in which they have been treated, they can take their case to the Local Government Ombudsman. Details for the Ombudsman will be provided in the letter notifying the complainant of the Council's decision.
- 11.2 Once the complaint is being investigated, the Council will make all correspondence and decision-making documents available to the Ombudsman. It is therefore important to keep accurate and up to date records justifying the decisions and actions taken.

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