

Policy: Unreasonably persistent and/or vexatious contact or complaints/complainants

Introduction

1. The majority of complaints will be resolved through our complaints policy and all efforts should be made to achieve resolution via this. However, in a small number of cases people pursue complaints in a way that can impede the investigation, handling and resolution of their complaint or can have significant resource implications for the council. This policy has been formulated to deal with the small number of complaints and/or complainants which make it necessary for special arrangements to be made.
2. Before implementing the provisions in this policy, members, staff and officers must consider whether the council's procedures have been followed correctly, make sure full and reasonable responses have already been given and decide if the complainant is now unreasonable, for example by reason of being unreasonably persistent, aggressive, abusive, threatening, offensive and/or vexatious.
3. The council has a duty to provide a safe working environment and system of work for its officers/members. Regardless of this policy, abusive, offensive or threatening conduct may be referred to the police to take action as appropriate in addition to any action the council may decide to take.

Unreasonable complaints

4. We define unreasonable complaints as contact from persons who, because of the frequency or nature of their contacts with the council, hinder our consideration, handling and resolution of their or other people's complaints.
5. Examples include the way, or frequency, in which complainants raise their complaint with staff or how complainants respond to officers, members and staff dealing with the complaint.
6. Features of an unreasonable complaint include the following examples (the list is not exhaustive, nor does one single feature on its own necessarily imply that the complaint will be considered as being unreasonable).

The following are non-exhaustive descriptions of the behaviour of an unreasonable complainant who may:

1. Pursue spurious and/or baseless complaints and, in the judgment of the council, are making the complaint only to inconvenience the council, or for reasons that he or she does not admit or make obvious.
2. Unreasonably refuse to specify the grounds of a complaint despite offers of assistance from council staff.
3. Unreasonably refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
4. Unreasonably refuse to accept that issues are not within the remit of the complaints policy, despite having been provided with information to this effect.
5. Unreasonably refuse to accept that issues are not within the power of the council to investigate, change or influence.
6. Unreasonably insist on the complaint being dealt with in ways which are incompatible with the complaint's procedure or with good practice (e.g. insisting that there must not be any written record of the complaint or insisting, in the absence of any bias (actual or perceived), that a certain officer/member/staff member shall or shall not deal with the matter) (NB nothing in this policy shall preclude the complainant from requesting reasonable adjustments under the Equality Act 2010 or them being applied).
7. Make unreasonable and/or groundless complaints about staff/officers/members dealing with

complaints and seek to have them dismissed or displaced on unreasonable grounds.

8. Make an unreasonable number of contacts with the council in relation to a specific complaint or complaints.
9. Continue to make persistent and unreasonable demands of staff and/or the complaints process after the unreasonableness has been explained (e.g. a complainant who insists on immediate responses to numerous, frequent and/or complex letters, telephone calls or emails or demands to be seen immediately when coming to the council offices).
10. Harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, and/or in relation to their complaint, by use of foul or inappropriate language or by the use of offensive or discriminatory language.
11. Unreasonably publish their complaints in other forms of media especially whilst the matter is still being investigated and/or handled.
12. Unreasonably raise new or secondary issues whilst the initial complaint or complaints are being addressed.
13. Unreasonably change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
14. Unreasonably deny statements he or she made at an earlier stage in the complaint process.
15. Unreasonably electronically record conversations without the prior knowledge and consent of the other person(s) involved.
16. Unreasonably adopt an excessively scattergun approach, for example, by pursuing a complaint with the council and at the same time with a member of parliament, other councils, members of the council, the police, solicitors and the Local Government Ombudsman especially without giving the council an opportunity to respond.
17. Unreasonably refuse to accept the outcome of the complaint process after its conclusion; for example by, unreasonably repeatedly arguing the point, unreasonably complaining about the outcome and/or unreasonably denying that an adequate response has been given.
18. Unreasonably make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has concluded, and insist that the minor differences make it a new complaint to be dealt with.
19. Unreasonably persist in seeking an outcome which the Council has explained is unrealistic for legal or policy (or other valid) reasons.
20. Unreasonably complain about or challenge an issue based on an historic and/or an irreversible decision or incident that has already been addressed.
21. Combine some or all of these features and/or exhibit other unreasonable conduct such that cumulatively the effect is persistent and/or vexatious.

Vexatious requests made under the Freedom of Information Act 2000 and UK GDPR

1. Where an individual is considered and/or classified under this policy, this will not affect their statutory rights, including under Freedom of Information Act 2000 (FOIA) and the UK General Data Protection Regulation (GDPR).
2. However, there may be occasions where the Council will need to consider whether an individual's requests made under FOIA could be deemed 'vexatious' and/or under the UK GDPR where 'rights' requests could be deemed 'manifestly excessive' or manifestly unfounded' taking account of all the circumstances and the guidance issued by the Information Commissioner's Office (ICO). **This is a separate and additional consideration to this Policy.**

Classification

1. The proposal to classify a complainant as unreasonably persistent or as behaving unreasonably should be made by the Council.
2. A written record shall be kept of why the complainant is believed to be unreasonable, what information has been considered and the decision made by the Council.
3. The Council shall act in a proportionate, fair and objective way.
4. If more than one member, staff member or officer is being contacted by the complainant, perhaps with different complaints, a nominated officer, member or staff member will co-

ordinate the response.

Initial notification

5. When a potentially unreasonably persistent complaint/complainant has been identified by any member of the Council, staff member and/or the Clerk to the Council, a final offer to meet face to face should be made by the Council with a staff member in attendance to explain to the complainant that the council may consider applying this policy due to the unacceptable behaviours and outline and evidence these. The individual should be provided with a copy of this policy. After the meeting or if the meeting is declined a letter or email will be sent to the complainant - see point [19] with the template letter for persistent complainants 'Important information regarding future correspondence', which will explain the action the council is taking and why.

Options for dealing with an unreasonable complainant

6. The options which the Council may consider include (but are not limited to):
 1. Refusing to accept a complaint or to amend the terms of the complaint
 2. Requesting contact to be in a particular format (e.g. letters only)
 3. Requiring contact to take place with one named Officer, Member or member of staff only
 4. Restricting telephone calls to specified times/ days / duration
 5. Requiring any personal contact to take place in the presence of an appropriate witness
 6. Letting the complainant know that the council will not reply nor acknowledge any further contact with them on the specific topic of that complaint or at all with the exception of statutory requests
7. In deciding on an appropriate option, care will be taken:
 1. Not to interfere with a complainant's statutory rights e.g. to attend council meetings or view papers, when making such restrictions
 2. To make sure that the council takes reasonable, proportionate and appropriate action in response to a matter included in a complaint where necessary
8. These options are not exhaustive and other factors individual to the case or service may be relevant in deciding an appropriate course of action. For example, any arrangements for restricting a complainant's contacts must consider the complainant's circumstances including any protected characteristics and any adjustments required and factors such as literacy levels, vulnerabilities and any other additional needs.
9. If none of the options listed above afford the reasonable protection that staff are entitled to, the Council may consider whether further action is required, which may include taking legal action (including seeking injunctive relief) and/or involving the police as appropriate. These will be considered on a case-by-case basis, taking relevant professional advice as necessary.
10. Such considerations and decisions, by their very nature, will likely be taken "in camera" i.e. in private meetings not public meetings.
11. When the Council has made a decision as to the appropriate restrictions to be used, the Council will write (or email) the complainant explaining the council's decision and the nature of restrictions being made. (The template letter as mentioned in point 14 will be used).
12. All staff and Council members shall be formally notified of the decision.

Reviewing decisions

13. All restrictions will be subject to review within a reasonable timeframe, being at least once every six months.
14. The complainant will be updated following each review and will be provided with brief reasons for the decision.

Record Keeping

15. The Clerk will retain reasonable records of the details of the case and the action that has been taken. Records will be kept of:
 1. the name and address of each member of the public who is treated as abusive, vexatious or persistent, or any other person who so aids the complainant

2. the reasons why the Council have classified the individual as vexatious or persistent under this policy
3. when the restrictions came into force, duration and the review period
4. what the restrictions are
5. when the person and Council were advised
6. date of when the Council made this decision

16. The Council will keep a record of those members of the public who have been treated as vexatious/persistent as per this policy.

Appeals against decisions

17. An individual who remains unhappy with the outcome can raise the matter with the Local Government and Social Care Ombudsman and more detail is found at:
www.lgo.org.uk/contact-us

This policy was adopted by Loddon Town Council at its meeting held on 8 May 2024.

Signed:

Dated:

Date for next review: May 2027 (reviewed every three years)