

Three Rivers District Council

Vexatious & Unreasonably Persistent Complaints Policy

September 2022

1. Introduction

- 1.1. This policy sets out the Council's approach to dealing with vexatious, and unreasonably persistent complaints, and is not the Council's complaints policy.
- 1.2. Customers wishing to make a complaint should refer to our Corporate Compliments and Complaints Policy.
- 1.3. In the majority of cases complainants are seeking a resolution to, or understanding of an issue and are cooperative in the process, however 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.
- 1.4. We are committed to dealing with all complaints fairly, comprehensively, and in a timely manner.
- 1.5. We will not normally limit the contact which complainants have with the Council or council staff.
- 1.6. We 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 in emails, letters, on the telephone or face to face
 - Making personal comments about staff
 - Any form of intimidating or threatening behaviour
- 1.7. 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 the complaint being regarded as vexatious.
- 1.8. 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 them to be labelled unreasonably persistent.

2. Aim of this policy

- 2.1. The aim of this policy is to contribute to our overall aim of dealing with all complaints in ways which are demonstrably consistent, fair and reasonable.

- 2.2. It sets out how we will decide which complaints will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff and customers.

3. Definitions

- 3.1. We have adopted the Local Government Ombudsman's (LGO) definition of **"unreasonable complainant behaviour"** and **"unreasonable persistent complaints"**

- 3.2. We define unreasonably persistent and vexatious complaints as those which, because of the frequency or nature of the complainant's 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 complaint for example the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.

- 3.3. Features of an unreasonably persistent and/or vexatious complaint include the following (the list is not exhaustive):

- There are insufficient or no grounds for the complaint and it is made only to disrupt and antagonise
- There are no specified grounds for the complaint despite offers of assistance
- The complainant refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- The complaint is about issues 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) and where the complainant refuses to accept this
- The complainant insists 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 or insisting the complaint is only dealt with by the Chief Executive)
- There appears to be groundless complaints about the staff dealing with the complaints, and an attempt to have them dismissed or replaced

- There is an unreasonable amount of contact with the council, by any means, in relation to a specific complaint or complaints for example when chasing emails are sent, after the complainant has been told they will receive a response in x number of days
- There are persistent and unreasonable demands or expectations of staff and/or the complaints process for example a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails
- Attempts to harass, verbally abuse or otherwise seek to intimidate staff dealing with their complaint by use of foul, inappropriate, offensive or discriminatory language
- Subsidiary or new issues are raised whilst a complaint is being addressed that were not part of the original complaint
- There is a change to the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- The complainant denies statements he or she made at an earlier stage in the complaint process
- The complainant electronically records meetings and conversations without the prior knowledge and consent of the other person involved
- The complaint is the subject of an excessively broad approach; for instance the complaint is not only submitted to the Council, but at the same time to a Member of Parliament, other councils, elected councillors of this and other councils, the Council's independent auditor, the Monitoring Officer or Standards Committee, the police, solicitors, and/or the Local Government Ombudsman
- The complainant refuses 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
- The same complaint is made repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and where the complainant insists that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- The complaint is submitted and persistently pursued through different council departments at the same time

- The complaint remains 'active' through the complainant persisting in seeking an outcome which we have explained is unrealistic for legal, policy or other valid reasons
- Documented evidence is not accepted as factual by the complainant
- The complaint relates to an issue based on a historic and irreversible decision or incident

4. Imposing restrictions

- 4.1. We will ensure that the complaint is being, or has been, investigated properly according to the Corporate Compliments and Complaints Policy.
- 4.2. In the first instance the manager investigating the complaint will consult with their Head of Service or relevant member of the Senior Leadership Team prior to issuing a warning to the complainant. The manager will contact the complainant in writing either by email or by letter to explain why this behaviour is causing concern and ask the complainant to change this behaviour. The manager will explain the actions that the Council may take if the behaviour does not change.
- 4.3. If the disruptive behaviour continues, a Director, Executive Head of Service or the Chief Executive will issue a letter or email to the complainant advising them that the way in which they will be allowed to contact the Council in future will be restricted. They will inform the complainant in writing of what procedures have been put in place and for what period, either in this email or letter or a subsequent email or letter.
- 4.4. 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 three and twelve months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a six monthly basis.
- 4.5. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
 - 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

- 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 individual and/or all council officers and insisting they only correspond by letter. This may include blocking emails if necessary
 - Banning the complainant from accessing any council building except by appointment
 - 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)
 - Informing the complainant that any further complaints from them will only be considered if a Director, Executive Head of Service or Chief Executive agrees that it warrants investigation
- 4.6. When the decision has been taken to apply this policy to a complainant, a Director, Executive Head of Service or Chief Executive will contact the complainant in writing to explain:
- Why the Council has taken the decision
 - What action the Council is taking
 - The duration of that action
 - The right of the complainant to contact the Local Government Ombudsman about the fact that their complaint has been treated as vexatious / unreasonably persistent
- 4.7. The Director, Executive Head of Service or Chief Executive will attach a copy of this policy to the email or include a copy in the letter to the complainant.
- 4.8. Where a complainant continues to behave in a way which is unacceptable, the Director, Executive Head of Service or Chief Executive may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- 4.9. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the Council will consider other options, including 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.
- 5. New complaints from complainants whose previous complaints have been treated as abusive, vexatious or persistent**

- 5.1. Genuinely new complaints that are significantly different in content from people who have been subject to this policy will be treated on their merits. A Director, Executive Head of Service or Chief Executive will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. The Council does not support a 'blanket policy' of ignoring genuine service requests or complaints where they are founded.
- 5.2. The fact that a complaint is judged to be unreasonably persistent or vexatious, and any restrictions imposed on contact with the complainant will be recorded and notified to those who need to know within the Council.

6. Record keeping

- 6.1. Adequate records will be retained by the appropriate manager with the details of the case and the action that has been taken. In addition a central record will be maintained by the Customer Service Centre setting out:
 - The name and address of each customer who is treated as abusive, vexatious or persistent
 - When the restriction comes into force and ends
 - What the restrictions are
 - When the customer and departments were advised

7. Right to Review

- 7.1. The decision by a Director, Executive Head of Service or Chief Executive under this policy is final and there is no right of review or appeal as part of this policy.
- 7.2. If you are unhappy with the decision, then you may wish to refer your complaint to the Local Government & Social Care Ombudsman.

8. The Local Government & Social Care Ombudsman (LGO)

- 8.1. The LGO is an independent body appointed by the Government to look into complaints against certain authorities.
- 8.2. The best way to make a complaint is via the LGO website - <https://www.lgo.org.uk/> - which has an online form.
- 8.3. For telephone help, you can call an LGO adviser, who will listen to you and say whether the LGO can consider your complaint.

- 8.4. You can call 0300 061 0614 between the hours of 10.00am - 4.00pm, Monday to Friday (except public holidays).

Policy review date: September 2023

