



THURLASTON PARISH COUNCIL

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Vexatious and Unreasonably Persistent Behaviour Policy

Introduction

The majority of people who raise a complaint, seek information or communicate with the council do so because they have a genuine concern and wish to seek answers or a resolution to their complaints. Unfortunately, in a small number of cases customers pursue their correspondence in a way which can impede the investigation of their complaint, are unreasonable in tone or aggression or can have significant resource issues for the Council. We refer to such correspondence as 'unreasonably persistent' and, exceptionally, we will take action to limit their contact with our offices.

Aim of this Policy

The aim of this policy is to contribute to the Council's overall aim of dealing with all customers in ways which are demonstrably consistent, fair and reasonable.

It sets out how the Council will decide when correspondence will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. Nothing in this policy will override anyone's right to seek their own legal advice on the options available to them.

Definition

Vexatious, unreasonably persistent behaviour and unreasonable behaviour arising from customers who, because of the frequency or nature of their contacts with the Council, hinder consideration of their or other complaints or requests.

Examples could include customers who feel that the Council has, or is not, dealing with their complaint/queries properly and are not prepared to leave the matter there or where complaints or queries are justified but are being pursued in an unreasonable or inappropriate way.

Alternatively, customers may be intent on pursuing complaints or correspondence which appear to have no substance or which have already been investigated, dealt with or responded to. In such instances contacts with the Council may be amicable but still place very heavy demands on staff or Member time, or they may be very emotionally charged and distressing for all involved.

Failure to deal with unreasonable behaviour of this type would result in the Council failing to comply with legal responsibilities. It would also impact upon the use of Council resources and hinder the Council's ability to deliver services.

There is of course an acceptance that Officers working for a public authority and Members may be subject to criticism from time to time, but that does not equate to an open season and the line must be drawn, otherwise the Council may be negligent in the duty of care it owes to its staff and Members.

Each case will be viewed individually and decided on its merits. Examples of unreasonable and unreasonably persistent behaviour include:

- Submitting repeat complaints where the Council's complaints procedure has been fully and properly implemented and exhausted.
- Refusing to specify the grounds of a complaint, despite offers of assistance.
- Refusing to co-operate with the complaint investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the scope of the complaints procedure.
- Making unjustified complaints about staff dealing with the complaint, or seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying statements made at an earlier stage.
- Introducing trivial or irrelevant information which the customer expects to be taken into account and commented on.
- Raising large numbers of detailed but unimportant questions and insisting they are fully answered.
- Covertly recording meetings and conversations.
- Adopting a 'scattergun' approach: pursuing a complaint across various areas of the Council or with other organisations such as a Member of Parliament / a councillor / the Standards Committee / local police/solicitors / the Ombudsman / other public bodies
- Making unnecessarily excessive demands, which are unreasonable and unsustainable on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous Council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Refusing to accept the decision of the Council, repeatedly arguing the point and complaining about the decision.
- Refusing to follow appeal procedures or other forms of legal avenues
- Use of racist, homophobic or other discriminatory language, including the use of offensive and abusive language
- Using bullying, physical or psychological threats as a means to gain leverage with an officer or Member
- Combinations of some or all of these.

Considerations prior to taking action under the policy

Different considerations will apply depending on whether an investigation into the complaint or query is ongoing or whether it has been concluded. However, where the issue is ongoing the Council will need to continue some contact with the individual.

The decision to designate someone as vexatious or unreasonably persistent is onerous and could have serious consequences for the individual.

Before deciding whether the policy should be applied the Council should be satisfied that:

- The complaint/query is being or has been properly investigated
- Any decision reached is the right one
- Communications with the customer have been adequate
- The customer is not providing any significant new information that might affect the Council's view on the matter
- Any circumstances relating to the customer's mental health, age, gender, sexual orientation, religious belief, language or disability have been considered
- The Council's Complaints policy has been applied correctly
- The customer has been made fully aware of their rights to appeal through the Ombudsman or other organisation.

If the Council is satisfied on these points it will consider whether further action is necessary prior to taking the decision to designate the behaviour as vexatious or unreasonably persistent. Examples might include:

- If no meeting has taken place between the customer and an officer/councillor, and where it is appropriate to do so, consider offering the individual a meeting with an officer/councillor. Sometimes meetings can dispel misunderstandings and move matters towards a resolution. The Council does not, however, guarantee a meeting and will offer one dependent on the particular circumstances of the case.

Before applying any restrictions in line with this policy the customer will be notified by phone, in writing or by email explaining that if his/her actions continue the authority may decide to treat him/her as unreasonably persistent or vexatious, an explanation why and warning of potential action the Council may take (with reference to this policy) if the problem persists.

Approach and Procedure

How the Council manages such correspondence will be dependent upon the nature and extent. If their persistence adversely affects the Council's ability to carry out its functions and provide a service to others, it may need to manage their unacceptable behaviour by restricting contact with staff.

Any restrictions applied will be appropriate and proportionate. The following are examples of the types of restriction(s) which may be used:

- a) Placing time limits on telephone conversations and personal contacts.
- b) Restricting the number of telephone calls that will be taken (for example, one call on one specified morning /afternoon of any week).
- c) Limiting the customer to one medium of contact (telephone, letter, email etc) and/or requiring the customer to communicate only with one named officer.
- d) Requiring any personal contacts to take place in the presence of a witness.
- e) Refusing to register and process further complaints/correspondence about the same matter.
- f) Where a decision on the complaint/query has been made, providing the customer with acknowledgements only of letters, faxes, or e mails, or ultimately informing the customer that future correspondence will be read and placed on the file but not acknowledged.

In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual against those of other customers and of staff and members as well as the need for the Council to provide its services.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we 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 individual prior warning of that action.

Applying the policy

Stage 1 - Warning

Where an individual is acting in an unreasonable manner, the matter will be discussed with the Council Chairman and, on their approval, the individual will be informed in writing/by email that this is the case. The letter will explain why the Council finds the behaviour unreasonable or unacceptable and advise them of actions which could be taken if they do not change their behaviour.

In cases where the customer is using offensive, abusive and/or racist, homophobic or otherwise discriminatory language, the matter will be referred immediately to stage 2 below.

Stage 2 - Restrict or Terminate Contact with the Council

Should the individual fail to moderate their behaviour, the following steps will be taken:

- Set up a strategy meeting to agree the Council's approach. Likely to be at the next full meeting of Council. In extremis an extraordinary of Council may be called.
- Undertake a risk assessment. Decisions to restrict or terminate contact will be taken following a risk assessment. However, where there is an immediate risk to staff or offices the Council may make an on the spot decision to restrict access or terminate contact in the short term.
- Consideration of applying a Single Point of Contact (see below)
- The decision and proposed action must be agreed by the Parish Clerk and Chairman.
- The Clerk will write to inform the customer of the restrictions, why the restriction or sanction has been imposed, what it means for his/her contacts with the authority and how long any restrictions or sanctions will remain in place.

This notification will be copied for the information of others already involved in the complaint or matters closely related to it. A record will be kept by the Parish Clerk.

Applying a Single Point of Contact (SPOC)

- This will involve limiting the customer to one method of contact (telephone, letter, email, etc) and/or requiring the customer to communicate with only one named member of staff.
- Where agreed that a single point of contact is to be provided all correspondence sent to the customer, including notification of this decision, will be dealt with by them.

- Emails and correspondence will be checked and referred to the intended recipients where appropriate. There will be no restriction on Councillors responding to the customer should they wish to do so.
- At no point will emails be accessed via logging into a Councillors or Officers email account. The entire process will be carried out in an overt manner, with the customer being properly advised of the measures and why they are being invoked.

Dealing with New Complaints/Requests

When designated vexatious or unreasonably persistent customer's make further complaints or requests about new issues these should be treated on their merits, and the Clerk and Chairman must decide on whether any restrictions which have been applied before are still appropriate and necessary.

Right of Review

Customers have the right to seek a review of a decision to designate them as vexatious or unreasonably persistent with the Local Government and Social Care Ombudsman, they will be fully informed of this right throughout the process and provided with the appropriate contact details.

Review of Decision

On a six-monthly basis, the Clerk and Chairman will review all those designated under this policy and determine whether or not the designation should continue to be applied to each individual. Where it is determined that an individual should be de-designated, they will be informed of that fact in writing/by email. However, the Council reserves the right to continue to monitor their behaviour to ensure that it continues to meet expected standards.

Record Keeping

Copies of correspondence, notes of meetings and telephone conversations and any other documents pertinent to the designated customer will be held in accordance with the Council's GDPR/Data Protection and document retention policies.

Reporting to Councillors

All complaints are reported to all Councillors at the next full meeting of the Parish Council.

With thanks to Blaby District Council