

STAFFORD BOROUGH COUNCIL

POLICY ON UNACCEPTABLE ACTIONS BY COMPLAINANTS

Stafford Borough Council's Policy for dealing with vexatious or unreasonably persistent complainants

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1 Introduction

1.1 The Council welcomes the opportunity to hear from its customers when services are appreciated, but also wants to know when things go wrong. We are committed to dealing with complaints and provide a high quality service to those who make them. As part of this service, the Council does not normally limit the contact that customers have with its officers. Persistence in a matter, if justified, should not be considered vexatious. However, a very small minority of customers make complaints that are vexatious or unreasonably persistent in order to make life difficult for the Council rather than genuinely to resolve a grievance. Examples include:

- Making excessive demands 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.
- Being abusive to staff.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.

1.2 This policy addresses these issues and covers customers who make service enquiries as well as complaints. The Council does, however, recognise its duties under the Freedom of Information Act, the Data Protection Act and related legislation, to provide information to requesters.

2 Purpose of the Policy

- 2.1 To make it clear to all complainants, both at initial contact and throughout their dealings with the Council, what the Council can or cannot do in relation to their complaint, in accordance with the Corporate Complaints Procedure. In doing so, the Council aims to be open and not raise hopes or expectations that it cannot meet.
- 2.2 To deal fairly, honestly, consistently and appropriately with all complainants, including those whose actions we consider unacceptable. The Council believes that all customers and Council employees have the right to be heard, understood and respected.
- 2.3 To provide a service that is accessible to all complainants. However, we retain the right, where we consider complainant actions to be unacceptable, to restrict or change access to our service.
- 2.4 To give the Council a framework to implement and take appropriate action against those customers who are deemed to be raising

3. Defining Unacceptable Actions by Complainants

- 3.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint coming to the Council. The Council does not view behaviour as unacceptable just because a complainant is forceful or determined. However, the actions of complainants who are angry, demanding or unreasonably persistent may result in unacceptable demands or behaviour towards Council employees. It is these actions that the Council considers unacceptable and aims to manage under this policy. The Council has grouped these actions under three broad headings:

Aggressive or Abusive Behaviour

- a. We expect our staff to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. The anger felt by many complainants involves the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards Council staff.
- b. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused.
- c. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks and rudeness. We also consider that inflammatory statements and unsubstantiated allegations can be abusive behaviour.
- d. Where physical violence has been used or threatened towards staff or their families / associates at any time, this will, in itself, cause personal contact to be discontinued. Thereafter, only one form of contact may be used such as correspondence in writing. All such incidents should be documented and in the first instance reported to the line Manager/Head of Service and notified as appropriate, to the police.

Unreasonable Demands

- a. Complainants may make what we consider unreasonable demands on the Council for example through:
 - the amount of information they seek;
 - the nature and scale of service they expect ;
 - the number of approaches they make.

What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.

- b. Examples of actions grouped under this heading include:
- demanding responses within an unreasonable time-scale;
 - insisting on seeing or speaking to a particular member of staff;
 - continually making phone calls or sending letters or emails;
 - repeatedly changing the substance of the complaint;
 - raising unrelated concerns.
- c. We consider these demands as unacceptable and unreasonable if they start to impact substantially on the work of the Council, such as taking up an excessive amount of staff time to the disadvantage of other complainants or functions.
- d. Where the complainant has submitted a Freedom of Information request that is deemed to be unreasonable, advice should be sought from the Lead Officer for Freedom of Information provision.

Unreasonably Persistent

- a. We recognise that some complainants will not or cannot accept that the Council is unable to assist them further or provide a level of service other than that provided already. Complainants may persist in disagreeing with the action or decision taken in relation to their complaint or contact the office persistently about the same issue.
- b. Examples of actions grouped under this heading include:
- persistent refusal to accept a decision made in relation to a complaint;
 - persistent refusal to accept explanations relating to what the Council can or cannot do;
 - continuing to pursue a complaint without presenting any new information.

The way in which these complainants approach the Council may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

- c. The Council considers the actions of persistent complainants to be unacceptable when they take up what is regarded as being a disproportionate amount of time and resources.

4 Managing Unacceptable Actions by Complainants

- 4.1 There are relatively few complainants whose actions the Council considers unacceptable. How the Council aims to manage these actions depends on their nature and extent. If it adversely affects our ability to do our work and provide a service to others, we may need to restrict complainant contact with the Council in order to manage the unacceptable action. The Council will aim to do this in a way, wherever possible, that allows a complaint to progress to completion through our Complaints Process or allow a complainant to raise a new separate complaint. We may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these. The Council will try to maintain at least one form of contact. In extreme situations, we tell the complainant in writing that their name is on a 'no personal contact' list to be maintained by the Head of Policy and Improvement. This means that they must restrict contact with the Council to either written communication or through a third party.
- 4.2 The threat or use of physical violence, verbal abuse or threatening behaviour towards Council staff is likely to result in the ending of all direct contact with the complainant. Incidents may be reported to the police. This will always be the case if physical violence is used or threatened.
- 4.3 We do not deal with correspondence (letter, fax or electronic) that is abusive to employees. When this happens we tell the complainant that we consider their language to be offensive, unnecessary and unhelpful. We ask them to stop using such language and state that we will not respond to their correspondence if they do not stop. We may require future contact to be through a third party. The Freedom of Information Act does not require the Council to answer vexatious requests. But the tone and language of the request may not in itself render the request vexatious. Please refer to the Freedom of Information Lead Officer for more information.
- 4.4 Council staff will end telephone calls if the caller is considered aggressive, abusive or offensive. The employee taking the call has the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop.
- 4.5 Where a complainant repeatedly contacts the Council, sends irrelevant documents or raises issues that have already been answered, we may decide to:
- only take telephone calls from the complainant at set times on set days or put an arrangement in place for only one employee to deal with calls or correspondence from the complainant in the future;

- require the complainant to make an appointment to see a named employee before visiting the office or that the complainant contacts the office in writing only;
- return the documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed;
- take other action that we consider appropriate. We will, however, always tell the complainant what action we are taking and why.

4.6 Where a complainant continues to correspond on a wide range of issues and this action is considered excessive, then the complainant is told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly.

4.7 Complainant action may be considered unreasonably persistent if all internal review mechanisms have been exhausted and the complainant continues to dispute the Council's decision relating to their complaint. The complainant is told that no future contact will be accepted or interviews granted concerning this complaint. The complainant will be advised to contact the Local Government Ombudsman. Any future correspondence which does arrive will be read and filed, but only acknowledged or responded to if the complainant provides significant new information relating to their complaint or in fact raises a new separate complaint.

5. Deciding to Restrict Complainant Contact

5.1 When a complainant has been deemed vexatious or unreasonably persistent, the relevant Head of Service will decide on what action to take, following advice from the Head of Law and Administration. The complainant will be notified in writing outlining:

- the reason/s why the decision to apply the policy was taken;
- what it means for his or her contacts with the Council;
- how long any restrictions will last; and
- what the complainant can do to have the decision reviewed.

5.2 This notification must be copied promptly for the information of others already involved, such as Head of Service, Chief Executive, Leader and relevant Cabinet Member and Ward Councillors. Records must be kept, for future reference, of the reasons why the decision has been made to classify individuals as vexatious or unreasonably persistent and the action taken, as per the council's document retention schedules.

5.3 The Council may decide to deal with vexatious or unreasonably persistent complainants in one or more of the following ways:

- Once it is clear that one of the criteria in section 3 (above) has been breached, it may be appropriate to inform the individual/s, in writing, that they are at risk of being classified as vexatious or unreasonably persistent. A copy of this policy should be sent to them and they should be advised to take account of the criteria in any future dealings with the Council and its staff. In some cases it may be appropriate, at this point, to copy this notification to others involved and suggest that complainants seek advice in taking their complaint further (e.g. via the Citizens Advice Bureau).
- It may be useful to hold a meeting with the complainant to find if there is a more effective way for the correspondence to be dealt with. This may bring to light an underlying, common cause for the various complaints.
- If more than one service is being contacted by an unreasonably persistent complainant, the Council will consider a strategy meeting to agree a cross-service approach; and, where appropriate, designating one officer to coordinate future Council's responses to the complainant.
- Any new complaints will be considered on their own merits. However, if new complaints relate to same or similar issues previously addressed, it may be appropriate to not investigate these issues further under the corporate complaints procedure. This should only be done with the agreement of the appropriate Head of Service. The complainant should be told this, and there is no need to provide any right of appeal other than to the Local Government Ombudsman. Subsequent complaints should then simply be noted.
- The Council can decline further contact either in person, by telephone, fax, letter or electronically, or any combination of these, provided that one form of contact is maintained. Alternatively, a further contact could be restricted to liaison through a third party e.g. in the case of a planning application through an agent.
- The Council will notify complainants in writing that the Council has fully responded to the points raised, and have tried to resolve the issues but there is nothing more to add and continuing contact on the matter will serve no useful purpose. This notification should state that that correspondence is at an end and that further communications will be acknowledged but not answered.
- Inform complainants that in extreme circumstances the Council reserves the right to refer vexatious or unreasonably persistent complaints to the Council Solicitor and / or, if appropriate, the police.

6. Restricting contact

6.1 Any restrictions will be agreed by the relevant Head of Service and will be appropriate and proportionate to the nature of the complainant's contacts with the Council at that time. The following is a summary of the types of restriction which may be used:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example one call on one specified morning/afternoon of any week).
- Limiting the customer to one medium of contact (telephone, letter, e-mail etc)
- Requiring the customer to communicate only with a named employee.
- Requiring any personal contacts to take place in the presence of a witness.
- Closing the investigation into a complaint.
- Refusing to register and process further complaints providing the customer with acknowledgements only of further letters, faxes, or e-mails received after a particular point.
- Banning a customer from some or all of the Council's premises.
- Involving the police in cases where we believe the customer has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened, or where the customer refuses repeated requests to leave council premises.

7 Withdrawing restriction

7.1 Once an individual has been classified as a vexatious or unreasonably persistent complainant, there is a mechanism for withdrawing this status if, for example, a more reasonable approach is subsequently demonstrated by the complainant.

7.2 Staff should have already used careful judgement and discussion with management in recommending or confirming vexatious or unreasonably persistent status and similar judgement / discussion will be necessary when recommending that such status should be withdrawn. Where this appears to be the case, discussions will be held with the Head of Law and Administration, subject to his approval, normal contact and procedures may be resumed. Notification should be sent to the complainant via letter or email. In any case all restrictions should be reviewed after being in place for twelve months and this timeframe be conveyed to the person as part of the restriction notification.

APPENDIX A

Some examples of vexatious and unreasonably persistent complainants

- Refusal to specify the grounds of a complaint, despite offers of assistance from Council staff.
- Refusal to co-operate with the complaints investigation process or insistence on the complaint being dealt with in ways which are incompatible with the corporate complaints procedure.
- Making what appears to be groundless complaints about the employees dealing with the complaints or attempting to use the complaints procedure to pursue a personal vendetta against an employee or team.
- Making unnecessarily excessive demands on the time and resources of Council staff whilst a complaint is being looked into.
- Changing the basis of the complaint as the investigation process goes on and/or denying statements he/she made at an earlier stage.
- Raising at a late stage in the process, significant new information which was in their possession when he or she first submitted a complaint.
- Introducing trivial or irrelevant new information or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Lodging numbers of complaints/requests for information in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure.
- Refusal to accept that issues are not within the remit of a complaints procedure or demanding outcomes which the complaint procedure cannot in itself provide such as the overturning of court decisions, dismissal or criminal prosecution of staff or decisions of the Local Government Ombudsman.
- Electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved.
- Seeking to coerce, intimidate or threaten staff or other people involved, whether by use of language, tone of voice or behaviour including body language.
- Submitting repeat complaints essentially about the same issues, which have already been addressed under the corporate complaints procedure.
- Persistence in contacting the Council and demanding responses or action long after the Council has closed the enquiry/investigation into a complaint and all rights of review and appeal have been exhausted.