

Vexatious and Unacceptable Behaviour Policy

A policy for dealing with abusive, persistent or vexatious complaints and complainants.

1. Introduction

- 1.1 The great majority of people who contact Bishop Auckland Town Council do so politely and with respect to Council employees. The Town Council welcomes feedback and encourages people who feel that they have grounds for complaint to contact the Council so that their concerns can be investigated in accordance with the Council's Complaints Procedure, which is designed to provide complainants with a thorough and fair means of redress.
- 1.2 There are however, exceptional circumstances where behaviour can present a challenge to the wellbeing of Staff or Councillors, resulting in unacceptable stress. Furthermore, some correspondence will result in a disproportionate amount of resource being spent in response, preventing the Council from efficiently fulfilling its wider duties.
- 1.3 Bishop Auckland Town Council does not expect its Staff or Councillors to tolerate unreasonable behaviour from members of the public whether in person, or other by points of contact such as telephone, email or social media platforms. The council has a direct duty of care to its employees and also a responsibility to any associated organisations and/or partners it works alongside.
- 1.4 This procedure is designed to address vexatious correspondence and complaints. It should assist the council to manage inappropriately demanding or unreasonable behavior from vexatious correspondents. Where the correspondence in question can be interpreted as a request or requests for information, this policy should be read in conjunction with the Information Commissioner's Office (ICO) guidance on dealing with vexatious requests, issued in connection with s.14 (1) of the Freedom of Information Act 2000.
- 1.5 This policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual or vexatious. The following clauses form the Council policy for ways of responding to these situations.
- 1.6 In this policy the term habitual means 'done repeatedly or as a habit'. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. This policy intends to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.
- 1.7 The term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the General Data Protection Regulations and Data Protection Act 2018 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.
- 1.8 Habitual or vexatious complaints can be a problem for Council Staff and Members. The difficulty in handling such complaints is that they are time consuming and wasteful of resources in terms of Officer and Member time. While the Council endeavors to respond with patience and sympathy to the needs of all complainants, there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

- 1.9 It is important that the application of this policy does not prevent people from accessing services to which they have a statutory entitlement, and it is designed to ensure that the rights of service users are protected. However, council resources are limited, and the Council has an obligation to ensure that these are used fairly and effectively. The council must also ensure that the Clerk, Staff and Councillors receive a reasonable degree of protection from the stress that can be caused by vexatious correspondence and complaints.
- 1.10 This procedure is not designed to address violent or threatening behaviour which needs an urgent response.
- 1.11 Staff are not expected to tolerate abusive, vexatious or unacceptable persistent behaviour by complainants.
- 1.12 The following behaviours will not be tolerated and apply to all of the access channels including telephone, face to face, email, web form and social media.
- Using abusive or foul language
 - Multiple contact to the service
 - Physical assault.
- 1.13 Raising of 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 someone being regarded as a vexatious or 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 them to be labelled vexatious or unreasonably persistent.
- 1.14 The aim of this policy is to contribute to the overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.

2. Habitual or Vexatious Complainants

- 2.1 For the purpose of this policy the following definitions of habitual or vexatious complainants will be used: *The repeated and/or obsessive pursuit of:*
- (1) *unreasonable complaints and/or unrealistic outcomes; and/or*
 - (2) *reasonable complaints in an unreasonable manner.*
- 2.2 Prior to considering its implementation the Clerk will send a *summary* of this policy to the complainant to give them prior notification of its possible implementation.
- 2.3 Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 3, the Clerk will convene a meeting of the General Appeal Panel (or equivalent) in order to seek agreement to treat the complainant as a habitual or vexatious complainant for the appropriate course of action to be taken. Section 4 details the options available for dealing with habitual or vexatious complaints.
- 2.4 The Clerk on behalf of the Council will notify complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken.
- 2.5 The status of the complainant will be kept under review. If a complainant subsequently

demonstrates a more reasonable approach, then their status will be reviewed. This action can be delegated to the Clerk but if they deem it appropriate, they can convene a meeting of the General Appeals Panel (or equivalent) to review this.

3. Definitions

- 3.1 Bishop Auckland Town Council defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 3.2 Examples include the way in which, or frequency with which, complainants raise their complaints with Staff or how complainants respond when informed of the Council's decision about the complaint.
- 3.3 Features of an unreasonably persistent and or vexatious complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category):

An unreasonably persistent and or vexatious complainant may:

- behaviour which is perceived as obsessive, persistent, harassing, prolific or repetitious.
- displays an insistence upon pursuing meritorious complaints or issues in an unreasonable manner, for example, failing to focus on addressing the issue in a harmonious and pragmatic way have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that they do not admit or make obvious).
- refuse to specify the grounds of a complaint despite offers of assistance.
- refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Repeated and/or frequent requests for information, whether or not those requests are made under the access to information legislation;
- refuse to accept that issues are not within the remit of the complaints policy and procedure, despite having been provided with information about the scope of the policy and procedure.
- refuse to accept that issues are not within the power of the Council to investigate, change or influence.
- refuse to accept documented evidence as factual.
- conduct a campaign against the Council's Officers that may potentially amount to being defamatory in nature.
- 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).
- make what appear to be groundless complaints about the Staff dealing with the complaints and seek to have them dismissed or replaced.
- make an unreasonable number of contacts with the Council, by any means including insisting on seeing or speaking to staff, continual phone calls or raising unrelated matters in relation to a specific complaint or complaints.
- repeated use of social media to criticise Council members or officers could also be viewed as vexatious conduct, as this could amount to cyber-bullying.

- make persistent and unreasonable demands or expectations of staff and or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to questions, frequent and or complex letters, faxes telephone calls or e-mails)
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and racist language or publish their complaints in other forms of media
- raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be considered and commented on
- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- deny statements they made at an earlier stage in the complaint process
- are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved
- adopts a 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Council, but at the same time with, for example, a Member of Parliament, other Councils, elected Councillors of this and other Councils, the Council's Independent Auditor, the Standards Board, the Police, other public bodies or solicitors
- refuse 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
- 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 which should be put through the full complaints' procedure
- persistently approach the Council through different routes or other persons about the same issue
- persist in seeking an outcome which Council has explained is unrealistic for legal or policy (or other valid) reasons
- refuse to accept documented evidence as factual
- complain about or challenge an issue based on an historic and or an irreversible decision or incident
- combine some or all of these features.

Guidance issued by the Information Commissioner recommended:

3.4 That four broad themes are considered when assessing whether a request for information is vexatious, and these factors may be more broadly applied to other correspondence:

- 3.4.1 the burden (on the public authority and its staff);
- 3.4.2 the motive (of the requester);
- 3.4.3 the value or serious purpose (of the request); and
- 3.4.4 any harassment or distress (of and to staff and councillors)

4. Imposing Restrictions

- 4.1 The Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.
- 4.2 In the first instance the Clerk will convene a meeting of the General Appeals Panel (or equivalent) prior to issuing a warning to the complainant if agreed by the Panel. The panel should give guidance to the Clerk on the potential restrictions that should be put in place and their expected duration, subject to review. The Clerk will contact the complainant in writing, or by e-mail, to explain why this behaviour is causing concern and ask them to change this behavior and outline the actions that the Council may take if they do not comply.
- 4.3 If the disruptive behavior continues, the Clerk will issue a further letter to the complainant advising them that the potential restrictions are being enacted. The Clerk will inform the complainant in writing of what procedures have been put in place and for what period. The Clerk does not need to convene a further meeting as the approval to take the measures have been delegated during the meeting at 4.2.
- 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 over which that the restriction will be in place. In most cases restrictions will apply for between three to six months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis by the Clerk, and if in place for as long as one year the Clerk should convene a meeting of the General Appeals Panel (or equivalent) to review and stop, amend or extend the restrictions.
- 4.5 If the complainant continues to behave in a way that is deemed unacceptable, then the senior management team, in consultation with the Mayor and Deputy Mayor may decide to refuse all contact with the complainant and cease any investigation into their complaint.
- 4.6 Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
 - banning the complainant from making contact by telephone except through a third party. e.g. a solicitor, a Councillor or a friend acting on their behalf.
 - banning the complainant from sending emails to individuals and or all Council Officers and insisting they only correspond by postal letter.
 - requiring contact to take place with one named member of staff only.
 - restricting telephone calls to specified days and or times and or duration.
 - requiring any personal contact to take place in the presence of an appropriate witness.
 - 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 will be identified who will read future correspondence).
- 4.7 The Council will not deal with correspondence (whether by letter or electronic) that is abusive to Staff or contains allegations that lack substantive evidence. When this happens, the individual will be told that their language is considered offensive, unnecessary and unhelpful. They will be asked to stop using such language and the Council will state that there will be no

response to their correspondence if they do not stop. The Council may require future contact to be through a third party.

- 4.8 When the decision has been taken to apply this policy to a complainant, the Clerk will contact the complainant in writing to explain:
- why the decision has been taken.
 - what action has been taken.
 - the expected duration of that action prior to review.
- 4.9 The Clerk will enclose a copy of this policy in the letter to the complainant.
- 4.10 Where a complainant continues to behave in a way that is unacceptable, the Clerk may convene a further meeting of the General Appeals Panel (or equivalent) which may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- 4.11 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, other options will be considered, for example the reporting of the matter to the police or taking legal action. In such cases, the complainant may not be given prior warning of that action. Bishop Auckland Town Council has a zero-tolerance position on physical violence, verbal abuse, threats or harassment against employees and its Councillors.

5. New complaints from complainants who are treated as abusive, vexatious or persistent

- 5.1 New complaints from people who have come under this policy will be treated on their merits. The Clerk will decide whether any restrictions that have been applied before are still appropriate and necessary in relation to the new complaint and may convene a General Appeals Panel meeting if deemed necessary. A blanket policy is not supported, nor ignoring genuine service requests or complaints where they are founded.
- 5.2 The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on Council's contact with them, will be recorded and notified to those who need to know within the Council.

6. Review

- 6.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Clerk after three months, and at the end of every subsequent three months within the period during which the policy is to apply. The Clerk may convene a meeting of the general Appeals Panel to review the status.
- 6.2 The complainant will be informed of the result of this review if the decision to apply this policy has been changed or extended.

7. Record Keeping

7.1 The Clerk will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:

- the name, address, telephone number and or email address of each member of the public who is treated as abusive, vexatious or persistent, or any other person who so aids the complainant.
- when the restrictions came into force and ends.
- what the restrictions are.
- when the person and Council were advised.

7.2 Full Council be provided with a regular report giving information about instances of members of the public who have been treated as vexatious/persistent as per this policy. The members of the public will not always be named to Councilors, whether Panel Members or Members of the full Council, however this will be managed on a case by case basis as appropriate; for example, there may be a need to advise Councilors of the details of the person if they need to be aware of the situation and/or to protect Staff.