

Tendring
District Council



**GUIDANCE FOR DEALING WITH PERSISTENT,
VEXATIOUS AND UNREASONABLE
COMPLAINANT BEHAVIOUR**

May 2013

Issued by the

Chief Executive's Office
Town Hall, Station Road,
Clacton-on-Sea, Essex CO15 1SE

TENDRING DISTRICT COUNCIL

Tendring District Council seeks to provide quality, cost-effective services to the people of Tendring and welcomes feedback and suggestions from service-users. We are constantly working to improve the services we provide, and, we will deal with those who believe they have not received a proper level of service through our complaints procedure.

Most complainants pursue their complaints with the Council in a reasonable and acceptable manner. However, a small minority of complainants act in a way that is persistent, vexatious or unreasonable. The definitions for these types of complainants used in this policy are:-

- To persist unreasonably with a complaint (persistent complainants); or
- To make complaints in order to make cause aggravation or annoyance rather than to genuinely seek to resolve a grievance (vexatious complainants); or
- Are abusive, offensive or threatening (unreasonable complainants).

The purpose of this policy is to provide guidance to staff on how to manage persistent, vexatious or unreasonable complainants.

The policy relates to all forms of communication to staff.

The policy can be used in conjunction with all other complaints policies and procedures operational within the Council.

When is a complainant persistent, vexatious or unreasonable?

The following list, drawn up by the Local Government Ombudsman, provides examples of complainant behaviour that may be considered to be persistent, vexatious or unreasonable;

- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Refusing to co-operate with the complaints investigation process;
- Refusing to accept that certain issues are not within the scope of a complaints procedure;
- Insisting on the complaint being dealt with in ways which are incompatible with a complaints procedure or with good practice;
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced;
- Changing the basis of the complaint as the investigation proceeds;
- Denying or changing statements he or she made at an earlier stage;
- Introducing trivial or irrelevant new information at a later stage;
- Raising numerous, detailed but unimportant questions; insisting they are all answered;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with the same department, other departments of the Council, Councillors, MPs, other public sector bodies or the Local Government Ombudsman;
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff / councillors, or detailed letters every few days, and expecting immediate responses;
- Submitting repeated complaints with minor additions / variations that the complainant insists make these 'new' complaints;
- Refusing to accept the decision;
- Repeatedly arguing points with no new evidence;
- Using abusive, threatening or offensive language.

If an officer is dealing with a complainant that they consider to be persistent, vexatious or unreasonable they should maintain detailed and chronological notes of the case. The matter should

then be referred to the relevant Corporate Director / Head of Department to reach a decision as to whether they consider the complainant to be persistent, vexatious or unreasonable taking into account the factors identified above (see appendix 1 for a checklist). The decision should be countersigned by another Management Team member.

It should be noted that simply because a complainant is unhappy with a response or raises criticisms because, for example, timescales are not met, that they would not be classed as persistent, vexatious or unreasonable.

What actions can be taken where a complainant is judged to be persistent, vexatious or unreasonable?

If a Corporate Director / Head of Department has concluded that a complainant is persistent, vexatious or unreasonable then options for action can be considered. Any actions taken must be proportionate to the nature and frequency of the complainant's current contact and take account of the complainant's circumstances.

- If consideration of a complaint is concluded then there is the option of ending all communication with the complainant on the issue and, where appropriate, referring the matter to the Ombudsman.
- If a complaint is still being considered then the aim is to take steps to manage the complainant's behaviour so that the complaint can be brought to a swift conclusion. Options for action include:-
 - Offering the complainant a meeting with an officer of suitable seniority to explore scope for a resolution;
 - Requiring the complainant to enter into an agreement about their behaviour before the investigation continues;
 - Placing limits on the number and duration of contacts with staff per week or per month;
 - Offering a restricted time slot for necessary calls;

- Limiting the complainant to one medium of contact (telephone, letter, email etc.)
- Requiring the complainant to communicate with one named member of staff;
- Requiring any personal contacts to take place at a set location in the presence of a witness.

If, after taking some or all of the above actions, the complainant continues to act in a persistent, vexatious or unreasonable way, a Corporate Director / Head of Department may decide to discontinue investigation into a complaint.

When a decision on a complaint has been made, the complainant can be informed that any future correspondence will be read and placed on file but not acknowledged, unless it contains new material.

New complaints from complainants who have previously been deemed to be persistent, vexatious or unreasonable will be treated on their own merits. Consideration must be given as to whether any restrictions imposed in relation to an earlier complaint will be applied to a new complaint on a different matter.

Operating the Policy

If a decision is taken to restrict contact, then the complainant must be written to, with a copy of the policy, explaining:-

- Whether their behaviour is being classed as persistent, vexatious or unreasonable;
- Why the decision has been taken;
- What it means in terms of their contact with the Council;
- How long any restrictions will last; and
- What the complainant can do to have the decision reviewed.

Records must be kept to show:-

- Where a member of staff has requested that the policy be applied and the decision of the Corporate Director / Head of Department;
- Where action(s) have been agreed to manage a complainant's behaviour;
- The length and nature of any restrictions on contact applied with a specified review date. Unless there are good grounds to extend restrictions, they should be lifted at the review date and the complainant advised accordingly. The complainant should also be advised, with reasons, if the restrictions are to be extended together with a new review date;
- Where a decision has been made not to put a further complaint from a complainant through the system;
- All contacts with the complainant.

What can the complainant do to challenge the Council's decision?

A complainant may make a complaint to the Ombudsman about the way in which he or she has been treated. The Ombudsman is unlikely to be critical of the Council's action if it can show that it acted proportionately and in accordance with the policy.

Checklist For Corporate Director / Head of Department To Consider When Determining Whether A Complainant Behaviour Is Persistent, Vexatious Or Unreasonable

Any decision to designate someone's behaviour as persistent, vexatious or unreasonable could have serious consequences for the individual, so the Corporate Director / Head of Department needs to consider:

Consideration	Yes / No	Evidence
Is the complaint being or has it been properly investigated?		
Has communication with the complainant been adequate?		
Is the complainant now providing any significant new information that might affect the Council's view of the complaint?		
Have any equalities issues been considered?		
Based on the evidence above is the behaviour of the complainant considered to be persistent?		
Based on the evidence above is the behaviour of the complainant considered to be vexatious?		
Based on the evidence above is the behaviour of the complainant considered to be unreasonable?		
What is the frequency of contact from the complainant?		

Consideration	Yes / No	Rationale
Based on the assessment above is it proposed to restrict access?		
What action(s) is / are proposed?		
What is the review date?		

Signed
Name
Title
Date

Countersigned
Name
Title
Date