



# **Vexatious Complainants Procedure**

## **Management of Unreasonable Complainant Behaviour**



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## 1. Introduction

- 1.1 A complaint is defined as *'An expression of dissatisfaction, however made, about the standard of service, actions or lack action by the organization, its own staff, or those acting on its behalf, affecting an individual or a group of individuals'*.
- 1.2 In general terms, you can make a complaint if you are not satisfied with our service or:
- You feel you have not been treated with courtesy or fairness.
  - You are unhappy about the standard of service you have received.
  - You feel we have failed to provide a service to which you are entitled.
  - You are unhappy about the action taken by us.
- 1.3 The Council recognises the importance of customer complaints and uses them as a valuable form of feedback about its services. The information gained from complaints will be used to help improve the quality of the services we provide and relations with our customers.
- 1.4 The Council complaint handling procedure will be conducted in line with the Local Government and Social Care Ombudsman's Complaint Handling Code. The Code provides guidance about good administrative practice to organisations under section 23(12A) of the Local Government Act 1974.
- 1.5 The Council will deal with complaints impartially, objectively, and professionally. We will treat complainants with respect, as we ourselves would like to be treated. Complainants and their families will not receive any adverse treatment because they have made a complaint.
- 1.6 However, in some circumstances it may, unfortunately, be necessary to restrict contact between the Council and complainants. The Council do not expect staff to tolerate unacceptable behaviour, including behaviour, which is abusive, offensive, or threatening. In these circumstances, we will take action to protect our staff, which is outlined in this procedure.
- 1.7 Raising legitimate queries or criticisms is not regarded as being unreasonable, so long as this is done in an appropriate and non-aggressive manner. If a complainant is unhappy with an outcome and simply seeks to challenge it, this will not result in them being considered as vexatious or unreasonable. Furthermore, we appreciate that complainants may often be frustrated and aggrieved, and it is, therefore, important to consider the merits of their case rather than their attitude. However, if a complainant becomes unreasonable in an unnecessarily persistent or aggressive manner, action under the Vexatious Complaints Procedure may be considered.

## 2. Examples of Unreasonable Actions and Behaviours

- 2.1 Deciding whether a complainant is vexatious is a balancing exercise, and the Council will consider all the circumstances of the case.
- 2.2 This is not an exhaustive list, but some examples of unreasonable actions and behaviours are:
- Continuously shouting at a member of staff, swearing, threats, name-calling and/or obsessive, harassing, or prolific behaviour.
  - Making unjustified complaints about staff who are trying to deal with the issues and seeking to have them resolved.

- Raising numerous, detailed but unimportant or repetitive questions, insisting that they are answered.
- Taking a ‘scatter-gun’ approach to complaints; pursuing parallel complaints on the same issue with a variety of services areas or members of staff.
- Making excessive demands on the time and resources of staff with lengthy telephone calls, emails to numerous council staff, or detailed letters every few days and expecting immediate responses.
- Refusing to co-operate with the complaints investigation procedure while still wishing their complaint to be resolved. Refusing to specify the grounds of a complaint, despite offers of assistance.
- Insisting on the complaint being dealt with in ways which are not covered within the Council’s Corporate Complaint and Compliment procedure, for example planning decisions appeals.
- Changing the basis of the complaint as the investigation proceeds. Denying or changing statements made at an earlier stage.
- Refusing to accept the outcome of the complaint process after its conclusion, repeatedly disagreeing, complaining about the outcome and or denying that an adequate response has been given.
- Covertly recording meetings and conversations.
- Making discriminatory or other inappropriate personal comments which may cause offense (including those which contravene the Equalities Act 2010) for example on the grounds of age, disability, ethnicity, gender, gender transformation, marriage, pregnancy, religion, race, sexual orientation, or sex.

2.3 It is acceptable for an employee to terminate a telephone conversation or a meeting if a complainant displays an unacceptable level of abuse or aggression during the conversation. The complainant should be warned and given the chance to modify their behaviour before the conversation is terminated.

2.4 If a call or meeting needs to be terminated because of the complainant’s conduct, the member of staff should do so politely and keep a record of what occurred.

### 3. Invoking the Vexatious Complainants Procedure

*Please see Appendix 1 for a flow chart of the stages of the Vexatious Complainants Procedure*

3.1 Where a complainant displays unreasonable behaviour (as described in section 2.2) this procedure may be invoked. However, the Council deals with a diverse population, including vulnerable people and any restrictions imposed must take into account the complainant’s individual circumstances. Some individuals, particularly those with mental health issues, medication that makes them forgetful, or dementia, may behave in a manner which might, if taken at face-value falls within the scope of this procedure. Accordingly, a sensitive approach is needed to ensure that the Council is acting appropriately and, in implementing this procedure, the Council will seek to ensure that its actions are in accordance with its obligations under the Equality Act 2010 and/or any other

applicable policies, by way of making reasonable adjustments and/or such other steps as appropriate.

### 3.2 Official Warning

The Corporate Complaints Manager will contact the complainant as soon as possible with an official warning in writing. In this warning, the Corporate Complaints Manager will explain why the complainant's behaviour is classed as unreasonable and will ask the complainant to change their behaviour when contacting the Council in future.

3.3 This warning will be active for six months. If no further occasions of unreasonable behaviour are displayed during this period, the warning will elapse.

3.4 If unreasonable behaviour is displayed after six months of the original official warning, then a further warning will be issued.

### 3.5 Invocation of the Formal Procedure

If the complainant does not alter their behaviour, The Corporate Complaints Manager, will write to the complainant within 10 working days of the date when unreasonable behaviour recurred to confirm any measures that are to be put into place.

3.6 These restrictions may include any steps which are considered reasonable and necessary in the circumstances, depending on the behaviour being displayed. Some examples of the restrictions could be, but are not limited to:

- Restricting the complainant from making contact by telephone, except through a third party.
- Restricting the complainant from sending emails to individual Council officers or Elected Members or using the single point of contact email address.
- Restricting the complainant from accessing any council building except by appointment
- Requiring contact to take place with one named member of staff (a single point of contact).
- Restricting telephone calls to specified days / times / duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Informing the complainant that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint, unless the complainant is supplying new evidence which makes it reasonable to do so.

3.7 Where the decision has been made to restrict contact with complainants, we will clearly explain:

- The reason why we have taken the action.
- What action(s) we are taking.
- The duration of the action.
- How to appeal.

3.8 It is not envisaged that any restrictions invoked will generally be in place for longer than 12 months.

3.9 The Corporate Complaints Manager will notify the relevant Directorate Management Team, and/or any other relevant council officers as appropriate to the complaint.

#### 4. Right of Appeal

4.1 All complainants have the right of appeal once the Vexatious Complainants Procedure has been invoked and restrictions put in place. An appeal can be made, within 20 working days of the of the restrictions letter, to the Council's Monitoring Officer, whose contact details will be supplied in the letter.

4.2 The Monitoring Officer will re-examine the need for any restrictions based on the complainant's case history and notification of appeal.

4.3 A letter will be sent to the complainant after the appeal has concluded to confirm the decision. The decision will be notified to the complainant within 20 working days from the appeal request being received. If there is to be a delay, the complainant will be notified of the reason for this and the expected timescales for a response.

#### 5. New Complaints from Complainants who have had Contact Restrictions Placed on Them Under the Vexatious Complainants Procedure

5.1 New complaints received from a complainant who has been the subject to actions under the Vexatious Complainant procedure will be considered by the Corporate Complaints Manager and the relevant service.

5.2 If restrictions under this procedure have previously been lifted and a complainant continues contact with the Council in a way that is deemed to be a continuation of previous behaviour, the Council may choose to re-impose the same and/or new restrictions, without giving prior warnings. If this happens, the Corporate Manager will write to the complainant to confirm this and the nature of the restrictions.

#### 6. Further Escalation

6.1 Whether the Council has invoked this procedure or otherwise, the Council may contact the police in circumstances where a complainant's behaviour towards its staff appears to potentially threaten their welfare and safety.

6.2 Similarly, in serious cases, the Council may make an application to the courts for an injunction, to prevent the complainant from contacting the Council or its staff.

## 7. Review of Restrictions

- 7.1 Any restrictions placed on an individual will be reviewed in line with the timescales applied under this procedure. If the timescales are to be extended, the complainant will be informed in writing, otherwise the application of this procedure will expire at the end of the allocated timescales.

## 8. Confidentiality

- 8.1 The Council considers the importance of confidentiality when handling any complaints, a person's information will be shared with officers relevant to any restrictions placed on an individual.
- 8.2 Personal information will be handled in accordance with the requirements of the Council's Data Protection Policy and the provisions of the General Data Protection Regulations (GDPR) and the Data Protection Act 2018.

## 9. Record Keeping

- 9.1 A record will be kept of all complainants who have been the subject of this procedure. This will include:
- Complaint details.
  - What decisions were made.
  - When the decision was made.
  - Why the decision was made.
- 9.2 This record will be updated each time the decision is reviewed. Where the review has led to a decision to lift any restrictions, all documentation relating to the restriction under this procedure will be retained for two years from the date of the review, and then destroyed.

## 10. Review of the Vexatious Complainant Procedure

- 10.1 The Vexatious Complainant Procedure will be reviewed when necessary, including following the notification of changes to the Complaint Handling Code or best practice guidance from the Local Government and Social Care Ombudsman.
- 10.2 The Council reserves the right to make amendments to this procedure at short notice, or in any situation that warrants an immediate amendment being introduced.



## Appendix 1 – Redcar & Cleveland Borough Council Vexatious Complaints Procedure Flow Chart

