

LOOE TOWN COUNCIL

K O N S E L T R E L O G H

Unreasonable or Vexatious Complaint Policy



Adopted by Council:
17th April 2023

Next Review due: 31st May 2024

LOOE TOWN COUNCIL



UNREASONABLE OR VEXATIOUS COMPLAINTS POLICY

Introduction

Looe Town Council aims to provide high quality services to the local community; its residents and visitors to the area. However, when things fall short of this standard, we will deal with those who have a complaint fairly, honestly and properly through the Council's Complaints Procedure.

Most complainants pursue their complaints in a reasonable and acceptable manner. A very small minority, however may:

- persist unreasonably with their complaints (persistent complainants); or
- make complaints in order to make life difficult for the council rather than to genuinely resolve a grievance (vexatious complainants); or
- are abusive, offensive or threatening (unreasonable complainants);

and these are the definitions used within this policy.

This policy reflects the Guidance note on 'unreasonably persistent and unreasonable complainant behaviour' issued by the Local Government & Social Care Ombudsman ('the Ombudsman').

Definition of Unreasonable Complainant Behaviour

For Looe Town Council, unreasonable, vexatious, and unreasonably persistent complainants are **those 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.**

It is important to differentiate between 'persistent' complainants and 'unreasonably persistent' complainants. Many people who submit complaints are 'persistent' on a reasonable basis because they feel the council has not dealt with their complaint properly. Almost all complainants see themselves as pursuing justified complaints.

Unreasonable complainants may have a justified complaint or grievance but they:

- pursue their complaint in inappropriate ways; or
- appear intent on pursuing a complaint which has no substance or has already been investigated and determined.

Unreasonable complainants may have amicable contact with the council, but often do not. In either case, they place very heavy demands on staff time and can cause distress for all those involved.

Sometimes the situation between the council and a complainant can escalate and the behaviour moves from being vexatious, unreasonable and/or unreasonably persistent to behaviour which is unacceptable, for example: abusive, offensive or threatening to those involved. Such complainants are in a very small minority, but sometimes the Council finds itself in the position of having to restrict access to Council premises or even having to resort to legal action to address the situation.

In extreme cases, Looe Town Council will consider anti-social behaviour orders, court injunctions, or applying its own sanctions to manage unacceptable behaviour. This may include, for example, limiting future contact only to questions posed in the public participation section of a full council meeting.

This policy covers behaviour that is unreasonable, which may include one or two isolated incidents, as well as unreasonably persistent behaviour; usually an accumulation of incidents or behaviour over a longer period.

Complainants may be deemed to be unreasonable and/or vexatious where contact with them (at the time of their complaint or before that) shows that they:

- Persist in pursuing a contact, enquiry or complaint where the Council's Complaints Procedure has been fully and properly implemented and exhausted; or
- Change the substance of a complaint, or persistently raise new issues, or seek to prolong contact by unreasonably raising further concerns. Any new issues, however, which differ significantly from the original complaint will not be disregarded.
- Are unwilling to accept documented evidence of facts or deny receipt of an adequate response despite correspondence specifically answering their questions / concerns. This could also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- Refuse to specify or do not clearly identify the precise issues or grounds that they wish to be investigated despite reasonable efforts to help them to do so by staff.
- Focus on a trivial matter, to an extent which is out of proportion with its significance and continue to focus on this point. It should be recognised that determining what is trivial can be subjective and careful judgment must be used in applying this criterion.
- Have had an excessive number of contacts while pursuing a registered complaint (or unreasonably made multiple complaints) with the council placing unreasonable demands on council resources. Such contacts can include in person, by telephone, letter, fax or electronically (emails and social media). Discretion must be exercised in deciding how many contacts are required to qualify as excessive, using judgment based on the specific circumstances of each individual case.
- Have harassed or been abusive or verbally aggressive or threatening or bullying on one or more occasions towards staff dealing with their complaint, either directly or indirectly, or their families or associates. All incidents of harassment or aggression must be documented, dated and reported to the Town Clerk.
- Are known to have electronically recorded meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the outset of any investigation into their complaint(s)

that such behaviour is unacceptable and can, in some circumstances, be illegal, and that they do not have the Council's permission to use any such recording they make.

- Make unnecessarily excessive demands on the time and resources of the Council or its staff whilst a complaint is being investigated, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Refuse to co-operate with the Council's complaints investigation process while still wishing their complaint to be resolved.
- Refuse to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Insist on the complaint being dealt with in ways which are incompatible with the Council's adopted policy/procedure or with good practice.
- Make what appear to be groundless complaints about the staff dealing with the issues and seek to have them replaced.
- Introduce trivial or irrelevant new information which they expect to be considered and commented on, or raise large numbers of detailed but unimportant questions and insist they are all fully answered.
- Adopt a 'scattergun' approach: e.g. pursuing a complaint or complaints with the council and, at the same time, with one or more Councillors.
- Demonstrate any combination of some or all of the above, which may include contact at Council buildings, or offsite and/or including home visits.

Complaints will be deemed to be vexatious in any situation where physical violence has been used or threatened towards staff or their families/associates at any time. This will cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented and reported, and where appropriate will also be referred to the police.

Raising legitimate queries or criticisms of the Complaints Procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as 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 him or her to be labelled unreasonably persistent. If complaints procedures are operating properly, then responding to expressions of dissatisfaction and requests for information should not cause the Council problems.

Dealing with unreasonable complaints

Where a complainant's contact with Looe Town Council is considered to be unreasonable, the Town Clerk together with the Mayor (or Deputy Mayor in their absence) will decide whether the behaviour is vexatious/unreasonable behaviour or not.

A warning letter may be issued which will provide an opportunity for the individual to modify their behaviour. If the complainant is known personally to either the Town Clerk or the Mayor/Deputy Mayor they must consider their ability to be objective in the matter and if a conflict of interest could be perceived they should excuse themselves and refer the matter to Full Council.

The complainant should be informed that any further contact should be through either a nominated officer or other channel agreed by the Council. The complainant should be informed that any course of action taken as a result of the decision reached, only relates to contact with the Council over their specific complaint(s). It does not, and is not intended to, have any impact on any other reasonable dealings between the Council and the complainant on other unrelated issues.

The Town Clerk and the Mayor (or Deputy in their absence) have the responsibility for identifying complainants as potentially acting in an unreasonable or vexatious manner. A referral will be made to Full Council who will recommend a course of action.

The Town Clerk will implement such action and arrange to notify the complainant promptly in writing, setting out the reasons why they have been classified as vexatious as a result of their unreasonable behaviour or unreasonably persistent behaviour and the action to be taken.

A record will be kept, for future reference, of the reasons why a complainant has been classified as vexatious and the action taken, the decision will be recorded on the Council's Unreasonable and Vexatious Behaviour Register.

Looe Town Council may decide to deal with unreasonable or vexatious complainants in a number of ways:

Once it is clear that a complainant meets any one of the criteria in section 2, it may be appropriate to inform them in writing that they are at risk of being classified as vexatious. A copy of this policy will be sent to them and they will be advised to take account of the criteria in any future dealings with Council staff.

The Council may decline further contact with the complainant either in person, by telephone, fax, letter or electronically (or any combination of these) provided that one form of contact is maintained.

In extreme cases, further contact may be restricted to liaison only through a third party, If expenses are incurred by the complainant in such a case, the Council is not responsible for these costs.

Looe Town Council will notify a complainant in writing when it considers that it has responded fully to the points raised and has tried to resolve the complaint; there is nothing more to add; and continuing contact on the matter will serve no useful purpose. Complainants will be notified that correspondence is at an end and that further communications will not be acknowledged or answered.

Complainants will be informed in writing of any restrictions that will apply to their further communications with the Council, the date of enforcement of such restrictions and when these will end. This information will be recorded in Looe Town Council's Unreasonable and Vexatious Complaints Register and will be shared with all relevant employees and Councillors. Where appropriate, complainants will be informed that Looe Town Council reserves the right to refer the behaviour of unreasonable or vexatious complaints to the police.

In exceptional circumstances, consideration may be given to the possibility of obtaining a High Court injunction to prevent the complainant harassing, threatening or causing distress to named or individual council employees.

If a group of individuals are identified to be acting in a co-ordinated manner, so as to avoid any one individual being identified as acting in an unreasonable vexatious or manner, the Town Clerk will consider if a collective number of individuals involved should be deemed as vexatious and be entered on to the Council's Unreasonable and Vexatious Complainants Register.

Withdrawing vexatious status

Once complainants have been classified as vexatious, this status will continue to apply for a minimum period of six months, at the end of which it will be reviewed by the Full Council. The review will decide whether the status be continued for a further period of six months, and all relevant parties informed, or if it will be withdrawn. This status can also be withdrawn at any time if, for example, complainants subsequently demonstrate a more reasonable approach.

If a person on the Unreasonable and Vexatious Behaviour Register submits a further complaint, relating to a new matter, the normal complaints procedures would apply, within the terms of the status applied, i.e. contact only in the specified format, or through a single point of contact.

Where vexatious status is withdrawn, normal contact with complainants and application of the Council's complaints procedures will be resumed.

Review and Appeal Process

If the vexatious complainant is unhappy about the decision to place their name on the Unreasonable and Vexatious Complainants Register, they have a right to appeal. This must be done in writing, by making a single request for their appeal to be reviewed by Full Council.

The request for a review of the decision must set out the reason(s) why they consider the decision unfair or wrong. Such requests must be made within 15 working days of the complainant having been notified, in writing, of the Council's decision to place them on the Unreasonable and Vexatious Complainants Register.

A review of the appeal will then take place at the next Full Council meeting.

Adopted by Council on 17th April 2023