



**POLICY ON DEALING WITH ABUSIVE, PERSISTENT
OR
VEXATIOUS COMPLAINTS**

DATE & MEETING IMPLEMENTED: September 2020

DATE OF REVIEW

SIGNED Cllr Hayes, Mayor

DOWNHAM MARKET TOWN COUNCIL

POLICY ON DEALING WITH ABUSIVE, PERSISTENT OR VEXATIOUS COMPLAINTS

1. Introduction

1.2 Downham Market Town Council is committed to dealing with all complaints equitably, comprehensively, and in a timely manner.

1.1 Dealing with a complaint is a straightforward process but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint.

1.3 We will not normally limit the contact which complainants have with council staff or offices.

1.4 We do not expect Councillors or staff to tolerate unacceptable behaviour by complainants, or any resident. Unacceptable behaviour includes behaviour, which is abusive, offensive or threatening and may include:

- Using abusive or foul language on the telephone, face-to-face, by letter, fax, email, text etc
- Any form of intimidating or threatening behaviour
- Sending multiple emails
- Leaving multiple voicemails

1.5 We will take action to protect staff and Councillors from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy.

1.6 Raising 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 the complaint being regarded as vexatious.

1.7 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge, should not necessarily cause him or her to be labelled unreasonably persistent.

2. Aim of this policy

2.1 The aim of this policy is to contribute to our overall aim of dealing with all complaints in ways which are demonstrably consistent, fair and reasonable.

2.2 It sets out how we will decide which complaints will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff, Councillors and the Public.

3. Definitions

3.1 We have adopted the Local Government Ombudsman's (LGO) definition of "unreasonable complainant behaviour" and "unreasonable persistent complaints"

3.2 We define unreasonably persistent and vexatious complaints as those which, because of the frequency or nature of the complainant's contacts with the council, hinder our consideration of their or other people's complaints. The description "unreasonably persistent" and "vexatious" may apply separately or jointly to a particular complaint.

3.3 Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.

3.4 Features of an unreasonably persistent and/or vexatious complaint include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the complaint and the person making it will be considered as being in this category):

- there are insufficient or no grounds for the complaint and it is made only to annoy (or for reasons that the complainant does not admit or make obvious)
- there are no specified grounds for the complaint
- the complainant refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- the complaint is about issues not within the power of the Town Council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation) and where the complainant refuses to accept this
- the complainant insists on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint or insisting the complaint is only dealt with by the Chair)
- there appears to be groundless complaints about the staff or Councillors dealing with the complaints, and an attempt to have them dismissed or replaced
- there is an unreasonable number of contacts with the Town Council, by any means, in relation to a specific complaint or complaints
- there are 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 numerous, frequent and/or complex letters, faxes, telephone calls, texts, emails, etc)
- attempts to harass, verbally abuse or otherwise seek to intimidate staff or Councillors dealing with their complaint by use of foul or inappropriate language or by the use of offensive or discriminatory language
- subsidiary or new issues are raised whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- trivial or irrelevant new information is introduced whilst the complaint is being investigated and an expectation that this to be taken into account and commented on
- there is a change to the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- the complainant denies statements he or she made at an earlier stage in the complaint process
- the complainant electronically records meetings and conversations without the prior knowledge and consent of others involved
- the complaint is the subject of an excessively "scattergun" approach; for instance, the complaint is not only submitted to the council, but at the same time to a Member of Parliament, other councils, elected councillors of this and other councils, the Council's independent auditor, the Monitoring Officer or Standards Committee, the police, solicitors, and/or the Local Government Ombudsman
- the complainant refuses 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
- the same complaint is made repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and where the complainant insists that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- the complaint remains "active" through the complainant persisting in seeking an outcome which we have explained is unrealistic for legal, policy or other valid reasons
- documented evidence is not accepted as factual by the complainant
- the complaint relates to an issue based on a historic and irreversible decision or incident

- the complaint combines some or all of these features

4. Imposing restrictions

4.1 The Town Council will ensure that the complaint is being, or has been, investigated properly according to the corporate complaints procedure.

4.2 In the first instance the Clerk investigating the complaint will consult with their Chair, or the Vice Chair in their absence, prior to issuing a warning to the complainant. The Clerk will contact the complainant either in writing or by email to explain why this behaviour is causing concern and ask them to change this behaviour. The Clerk will explain the actions that the Town Council may take if the behaviour does not change.

4.3 If the disruptive behaviour continues, the Clerk will issue a letter or email to the complainant advising them that the way in which they will be allowed to contact the Town Council in future will be restricted. The Clerk will inform the complainant in writing of what procedures have been put in place and for what period, either in this letter or a subsequent letter. The Clerk can consult with the Monitoring Officer or the Town Council and/or legal advice if they so wish.

4.4 Any restriction that is imposed on the complainant's contact with the Town Council will be appropriate and proportionate, and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

4.5 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. solicitor/councillor/friend acting on their behalf
- Banning the complainant from sending emails to individual Councillors and/or all council officers and insisting they only correspond by letter
- Requiring contact to take place with the Clerk only
- Restricting telephone calls to specified days / times / duration
- Requiring any personal contact to take place in the presence of an appropriate witness
- Letting the complainant know that the Town 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)
- Informing the complainant that any further complaints from him or her will only be considered if a Clerk agrees that it warrants investigation

4.6 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 Town Council has taken the decision,
- what action the Town Council is taking,
- the duration of that action,
- the review process of this policy, and the right of the complainant to contact the Local Government Ombudsman about the fact that their complaint has been treated as a vexatious/persistent issue.

4.7 The Clerk will enclose a copy of this policy in the letter to the complainant.

4.8 Where a complainant continues to behave in a way which is unacceptable, the Clerk may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

4.9 Where the behaviour is so extreme, or it threatens the immediate safety and welfare of staff or Councillors, the Town Council will consider other options, for example reporting the matter to the

police or taking legal action. In such cases, the Town Council may not give the complainant prior warning of that action.

5. New complaints from complainants whose previous complaints have been 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 which have been applied before are still appropriate and necessary in relation to the new complaint. The Town Council does not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.

5.2 The fact that a complaint is judged to be unreasonably persistent or vexatious, and any restrictions imposed on contact with the complainant will be recorded and notified to those who need to know within the Town Council.

6 Record keeping

6.1 Adequate records will be retained by the Clerk along with the details of the case and the action that has been taken. This will include:

- • The name and address of each customer who is treated as abusive, vexatious or persistent
- • When the restriction comes into force and ends
- • What the restrictions are
- • When the customer and departments were advised

6.2 The complainant will be advised in the communication of the intention to keep the information as per GDPR Regulations.

6.3 In exception to this policy Downham Market Town Council may retain a written or media document for a specific purpose for as long as is relevant and subject to an annual review. In resolving to make such an exception the Town Council will specify the purpose and maximum period of retention.