



Saltash Town Council

Policy/Procedure:

Unreasonable Customer Behaviour Policy

Date of Adoption:

2019

This is a Policy or Procedure document of Saltash Town Council to be followed by both Councillors and employees.

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1. Purpose of the policy

The aim of this policy is to help customers and staff to understand how the Council manages unreasonably persistent and unreasonable behaviour by customers. It gives clear guidance as to the definition of unreasonable behaviour and explains what actions staff should take when presented with such behaviour or unreasonable requests. This Policy ~~will apply to both Cornwall Council and its arm's length companies where applicable and~~ has been based on guidance issued by the Local Government Organisation (LGO) and the Information Commissioner's Office (ICO).

2. Summary

Dealing with correspondence from customers, a complaint, Freedom of Information (FOI) request ~~or CEO's and Directors Mail correspondence~~ is usually a straightforward process. However, in a minority of cases, people pursue correspondence in a way that can impede the investigation of their complaint or can have significant resource implications for the Council. This policy has been formulated to deal with the small number of customers who make it necessary for special arrangements to be made. It should be noted that there are differences between FOI and non FOI related cases and these are outlined later, although the general principles below apply to both instances.

~~When referencing FOI in this Policy, this also applies to Environmental Information Regulation (EIR) requests. Requests that relate to the environment, land or property fall under the EIR regime rather than FOI, but are dealt with in a similar manner.~~

We aim to deal with any correspondence or complaints in a way which is open, fair and transparent. We have developed this policy so that people who complain and the staff who manage those complaints understand what to do if people start to behave unreasonably.

3. Background

We do not normally limit the contact people have with us. Whether they are complaining, making a request for service, a FOI request or seeking help and guidance, we are committed to dealing with all requests fairly and impartially and to providing a high quality of service. We are keen to resolve any dispute and/or complaint as early as possible.

Occasionally, the behaviour of some customers can make it very difficult for us to deal with their concerns. In a small number of cases the actions of some customers becomes unacceptable because they involve abuse of staff or processes. When this happens we have a responsibility to our staff to take appropriate steps to limit the customers contact with the Council. On other occasions we have to consider whether a customer's actions are having an impact on our ability to do our work and to provide a service to others. Such actions can occur either while the complaint is being investigated, or once we have completed the investigation.

We understand that people sometimes feel frustrated about matters but we will not tolerate behaviour which we deem to be unacceptable, threatening, abusive or unreasonably persistent towards staff or elected members.

4. Scope

We define unreasonably persistent and unreasonable customers (referred to as Vexatious ~~or Manifestly Unreasonable~~ under FOI/~~EIR~~), as those customers, who because of the frequency or nature of their contacts with us hinder our consideration of their or other people's issues or complaints.

These are generally covered under 2 key areas:

- customers who feel that the Council has not dealt with their issue, complaint or FOI request properly and are not prepared to leave it there; and
- customers may have a justified dispute, complaint, FOI request or grievance, but these are either being pursued in inappropriate ways, or customers may be intent on pursuing the issue which appears to have no substance or which may have already been investigated and determined. Their contacts with the Council may be amicable but still place very heavy demands on employee time, or they may be very emotionally charged and distressing for all involved.

Sometimes a situation between the Council and a customer can escalate and the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening behaviour.

Any decision resulting from the implication of the policy normally applies to the nature of the dispute, complaint or subject matter and not to the customer themselves. However, it is very likely that the customer's previous behaviour will have some bearing on how to proceed with unrelated future correspondence or contact with the Council, particularly where there has been an element of extreme behaviour or verbal abuse.

5. Examples of unreasonable behaviour and actions

The following is a list of some actions and behaviours which can be deemed as unreasonable, unreasonably persistent, (or vexatious/~~manifestly unreasonable~~ under FOI/~~EIR~~). The following is by no means exhaustive and is designed to give an indication of the type of behaviour that is considered to be unreasonably persistent. For further advice, please contact the ~~Corporate and Information Governance~~ Manager Town Clerk.

- Refusing to specify the grounds of a dispute and/or complaint, despite offers of assistance from Council employees;
- Refusing to co-operate with the complaints investigation process (~~Listening and Learning Policy~~ Customer Feedback Policy) while still wishing their complaint to be resolved;
- Refusing to accept that certain issues are not within the scope of the Council's complaints procedure despite having been provided with information about the scope of the ~~Listening and Learning~~ Customer Feedback Policy;
- Insisting on the dispute and/or complaint being dealt with in ways which are incompatible with the Council's adopted complaints procedure (~~Listening and Learning~~ Customer Feedback Policy) or with good practice;

- Making unjustified complaints about employees who are trying to deal with the issues, and seeking to have them replaced or harbouring personal grudges;
- Changing the basis of the complaint as the investigation proceeds;
- Denying or changing statements made at an earlier stage;
- Introducing trivial or irrelevant new information at a later stage;
- Raising numerous, detailed and unimportant questions and insisting they are all fully answered;
- Covertly recording meetings and conversations without the prior knowledge and consent of other persons involved;
- Submitting falsified documents from themselves or others;
- Adopting a 'scattergun' approach: pursuing parallel disputes and/or complaint(s) on the same issue with a variety of officers, departments or services;
- Making unnecessarily excessive demands on the time and resources of employees whilst a dispute and/or complaint is being looked into. Making excessive telephone calls or sending emails to numerous Council employees, writing lengthy complex letters every few days and expecting an immediate response;
- Submitting repeat complaints or FOI requests (after the complaints/FOI process has been completed) essentially about the same issue(s), with minor additions/variations which the customer insists make these a 'new' dispute and/or complaint;
- Being abusive or using aggressive language;
- Rejecting attempts by the Council to assist and advise and showing no willingness to engage with Council officers;
- Explicitly stating that it is their intention to cause disruption to the Council;
- Refusing to accept the decision; repeatedly arguing points with no new evidence;
- Using other family members to attempt to re-open a complaint already closed; or
- Combinations of some or all of the above.

The following sections set out the procedures in relation to non FOI and FOI cases (also referenced in the flowchart on page 10)

For non FOI related cases (sections 6 – 10)

The following sections cover non FOI/~~EIR~~ related issues such as complaints or wider Council contact/disputes.

6. What actions can be taken to stop or limit the behaviour?

The actions we take will depend upon the nature and extent of their behaviours. Any action taken should be appropriate and proportionate to the nature and frequency of the customer's contacts with the Council. If their persistence adversely affects the Council's ability to do its work, is disproportionately resource intensive and/or adversely affects the Council's ability to provide a service to another, the Council may need to address their behaviour.

Initially the customer may be sent an initial letter setting out their conduct is becoming a concern. The letter will ask that the behaviour exhibited is moderated and will suggest, where appropriate, who the customer should contact within the Council over their concerns.

Should this request for not be heeded there are 2 stages which must be followed for a customer to be made unreasonably persistent or their unreasonable behaviour recognised as such.

IT SHOULD BE NOTED – This policy only deals with the conduct of the customer, not the substance of the complaint or concerns raised. The adopted procedures relating to the processing of complaints should be followed regardless of whether this policy is engaged, unless it is considered there are reasons for not doing so. If this is the case the customer should be advised of this at the earliest opportunity and if appropriate provided with an alternative route to remedy his complaint, such as referral to the Local Government Ombudsman.

Stage 1 (prior warning)

If customer ignores the initial letter and is deemed to be unreasonably persistent or demonstrating unreasonable behaviour, the ~~Head of Service or, Corporate and Information Governance Manager~~ Town Clerk will issue a prior warning letter, including the following points:

- An explanation of why the customer's behaviour is deemed unacceptable;
- An offer of a meeting, if deemed appropriate by the Council, with an officer from the council to try and resolve the dispute / complaint / issue and explain to the customer why their behaviour is unacceptable;
- Advising of a named officer/point of contact for any further correspondence;
- A statement of future intent to apply restrictive action to the customer's contact should their behaviour continue;
- Referencing and including a copy of the Unreasonable Customer Behaviour policy.

Any arrangements for limiting a customer's contact must take account of the customers individual circumstances however, such actions may include blocking a customer's email address denying the customer the ability to email the Council and/or refusing to take telephone calls from the customer.

Should such action be necessary the customer's name will be added to the Councils register as having been sent a prior warning letter.

Stage 2 (full implementation of the policy)

- Full implementation of the policy will be undertaken by the ~~Monitoring Officer~~ **Town Clerk**, or his nominated representative, in liaison with the ~~Standards Policy and Finance~~ **Committee**;
- Before the policy can be fully implemented, the ~~Monitoring Officer~~ **Town Clerk**, or his nominated representative, must be satisfied that the customer is behaving in an unreasonable or persistent manner (as per the policy), that the complaint / issue / dispute has been dealt with properly and in accordance with the ~~Listening and Learning~~ **Customer Feedback** policy and stage 1, a prior warning letter has been sent to the customer as outlined above;
- Once satisfied, the ~~Monitoring Officer~~ **Town Clerk**, or his nominated representative will take a report (factual and unbiased) to the ~~Standards Policy and Finance~~ **Committee** detailing a history of the dispute / complaint, the reasons why the customer's behaviour is felt to be unreasonable or persistently unreasonable, a log of contact with the customer (to include dates, times and nature of contact) and any other related information which is of relevance. The role of the ~~Standards Policy and Finance~~ **Committee** is to consider if the customer's contact with the Council is unreasonably persistent, it will not examine the complaint overall.
- Once completed, the report will be passed to the ~~LGO Link Officer within Legal Services~~ **Town Clerk** who will check the report prior to it being submitted to the ~~Standards Committee~~ **Town Council** for consideration;
- If the ~~Standards Committee~~ **Town Council** takes the decision to make the customer unreasonably persistent, the ~~Monitoring Officer~~ **Town Clerk** or his nominated representative will write to the customer advising them of this, explaining how long the restrictions will remain in place and what the customer can do to have the decision reviewed;
- Should a customer raise new issues or complaints, these will be reviewed on their own merits and consideration given to any restrictions on the customer which have previously been applied.
- The customer will be added to the Council's register as being declared by the ~~Standards Committee~~ **Town Council** as a persistent complainant, also ensuring relevant officers/Members are made aware

7. What happens if a customer continues to contact the Council?

The ~~service concerned~~ **Town Council** should appoint a named officer to deal with and review any future correspondence or contact from the customer. When reviewing any future correspondence, the officer should consider whether this relates to an existing issue or whether it is a new concern;

Where a customer continues to contact us about an existing issue to which this policy has been applied but provides no further new evidence to support their complaint, no further action will be taken on the issue, a letter will be sent to the complainant advising of this and then no further correspondence will be entered into;

If a customer raises a new complaint or provides further new evidence to support their existing complaint, the ~~Monitoring—Officer~~ **Town Clerk** or their nominated representative will make a decision as to how this will be dealt with and whether any existing restrictions (as per this policy) are still appropriate;

If a customer's behaviour becomes abusive or threatening, we may take the decision to inform the police; and

Customers should not seek to circumvent this policy by asking someone else who is connected to them, such as a family member, someone of close association, advocate, or simply to submit the same or identical complaints on their behalf. Should we consider that someone is acting in place of or with a declared unreasonably persistent complainant, the customer who has submitted the duplicate complaint will be treated in the same manner.

Should a customer seek to circumvent this policy by contacting their local MP or Councillor whilst we will engage with the MP or Councillor we will ask that they assist us in maintaining the customer's status, subject to their own investigations into the matter.

Further, should a customer to whom the Policy has been applied, continue to email, write in or telephone officers and Members have the right to not reply or respond to this communication.

8. What can a customer do to challenge the Council's decision?

If a customer is unhappy with the decision the Council has taken under this policy or are unhappy with how they have been treated, they may make a complaint to the Local Government Ombudsman (LGO) about how they have been treated; and

We will co-operate fully with any investigation the LGO undertakes and will ensure that all paperwork and documentation is available.

9. How does the Council review the decision?

Where restrictions (in line with this policy) have been applied to a customer, they will normally be in place for a year but will be subject to a review at 6 months by the ~~Monitoring Officer-Town Clerk~~.

At the end of this period, the ~~Standards-Policy and Finance~~ Committee will review the case; and;

The ~~Monitoring Officer Town Clerk~~ (or his nominated representative) will write to the customer to advise them of the outcome of the ~~Standards-Policy and Finance~~ Committee. Where any restrictions are to continue, the customer will be notified of this alongside an explanation of why and when the next review is scheduled to take place.

10. Confidentiality, legal requirements and non-compliance

- All personal data provided to the Council will be processed in accordance with the Data Protection Act ~~1988-2018~~;
- Any breach of the policy may result in the Council being referred to the Local Government Ombudsman.

For FOI/EIR related cases (sections 11 – 14)

The following sections cover FOI/~~EIR~~ cases where it is deemed that a request is Vexatious under Section 14(1) of the Freedom of Information Act (FOIA). ~~or Manifestly Unreasonable under regulation 12(4)(b) of the Environmental Information Regulations (EIRs).~~

11. What actions can be taken to stop or limit the behaviour?

Where it becomes apparent that the nature of a request or string of requests is potentially making a request vexatious or manifestly unreasonable, consideration should be given to warning the requestor that if they are to submit any further requests on the same issue, it is likely that these requests will be deemed as vexatious under FOI. ~~or manifestly unreasonable under EIR.~~

12. What happens if a customer continues to contact the Council?

If a further request is received on the same or similar subject matter under FOI/~~EIR~~ then a decision will be taken by the departmental/service FOI representative that the request is vexatious/manifestly unreasonable and the requestor will be informed of the decision, along with the reasons for the decision being taken. Only the request itself can be considered vexatious and not the individual who submitted it. Therefore, any further requests from the same requestor should be treated and assessed independently.

Where necessary, further advice should be sought from ~~the Council's Central FOI Team and/or the Council's Principal Legal Officer, Legal Services-CALC~~ or the Monitoring Officer, Cornwall Council.

Where the time (or cost) of dealing with the request is the main issue, consideration will be given to applying Section 12 of the FOIA or Regulation 12(4)(d) where the time/cost of dealing with a request is unreasonable and consideration given to asking the requestor to narrow down or reduce the scope of the request to bring it within an appropriate time frame (18 hours under the FOIA).

Where appropriate, consideration should be given as to whether the wider Unreasonable Customer Behaviour Policy should also be invoked in addition to making a request vexatious/manifestly unreasonable.

The requestor will then be added to the Council's register of customers who have been made vexatious as defined by this Policy, also ensuring relevant officers/Members are made aware.

Customers should not seek to circumvent this policy by asking someone else who is connected to them, such as a family member, someone of close association, MP, Local Member or advocate, or simply to submit the same or identical complaints on their behalf. Should we consider that someone is acting in place of or with a declared unreasonably persistent complainant, the customer who has submitted the duplicate complaint will be treated in the same manner.

13. What can a customer do to challenge the Council's decision

If a requestor is unhappy with the decision to make their request vexatious/manifestly unreasonable, they have the right to ask the Council to carry out an Internal Review. The case will then be considered by an independent senior officer who will review the case and notify the requestor of the decision. If following the Internal Review, the requestor is still unhappy, they have the right to contact the Information Commissioner's Office (ICO) who will then decide on the evidence supplied, whether to investigate the case.

14. How does the Council review the decision?

Where a request has been made vexatious or manifestly unreasonable, no further requests to similar matters raised will be considered within a 12-month timeframe. Any new request will be reviewed within this timeframe and a decision will be taken as to whether this is a new request (and dealt with as a fresh request) or falls within the subject matter made vexatious/manifestly unreasonable.

