

Unreasonable Customer Behaviour and Persistent Complaints

*This is a policy/procedure document of Saltash
Town Council to be followed by both Council
Members and Employees.*

Current Document Status			
Version	2	Approved by	FTC
Date	April 2022	Date	09.06.2022
Responsible Officer	AJT	Minute no.	93/22/23
Next review date	Annual or as required		

Version History			
Date	Version	Author/Editor	Notes
02.07.2019	1	AJT	NEW (P&F Min 36/19/20)
April 2021	1/2021	AJT	Review for reapproval – new council. 20.05.2021 Min 46/21/22c(xv)
April 2022	2 DRAFT	AJT	Policy reviewed and updated from CC model and LGSCO guidance. Approved FTC 062022

Document Retention Period
Until superseded

Saltash Town Council

Unreasonable Customer Behaviour and Persistent Complaints Policy

1. Purpose of the policy

The aim of this policy is to help customers and staff to understand how Saltash Town 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 has been based on guidance issued by the Local Government and Social Care Ombudsman and the Information Commissioner's Office (ICO) and relates to unreasonably persistent written and verbal communication with the Council. This policy is not a replacement for the Zero Tolerance Policy.

2. Summary

Dealing with correspondence from customers, a complaint or information requests 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 Freedom of Information (FOI) and non-FOI related cases although the general principles below apply to both instances.

FOI references also apply to Environmental Information Regulation (EIR) requests which may relate to the environment, land or property. These will be dealt with under the guidance issued by the ICO.

Requests for personal information may fall under the UK General Data Protection Regulation (UK GDPR). These will be dealt with under guidance issued by the ICO.

We aim to deal with any correspondence or complaints in a way that is open, fair and transparent. Complaints and requests for information will be dealt with impartially and proportionately. 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.

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.

3. Background

We do not normally limit the contact people have with us. Whether they are complaining, making a request for service, an information 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 become unacceptable because they involve abuse of processes, or violence and aggression to staff or other people, including Members of the Council. When this happens, we have a responsibility to our staff and Members 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 while either 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 Members or imposes such a burden on the council that is an unreasonable drain on our resources.

4. Scope

We define unreasonably persistent and unreasonable customers (referred to as Vexatious or Manifestly Unreasonable under FOI/EIR) and Manifestly Unfounded under UK GDPR, 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 two key areas:

- customers who feel that the Council has not dealt with their issue, complaint or information request properly and are not prepared to leave it there; and
- customers who may have a justified dispute, complaint, information 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 totally unacceptable.

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. Unreasonable Complainant Conduct

We will not tolerate racist, sexist, homophobic or other discriminatory language, or offensive, threatening, aggressive or violent behaviour towards our staff or Members of the Council.

If you use such language or behaviour, we will ask you to stop doing so in order to protect the wellbeing of our staff or Members of the Council. In exceptional circumstances we may immediately restrict your access to our services without prior warning. We will then write to you and explain the action we have taken.

If your use of language is because of a medical condition, we will discuss with you any reasonable adjustments we need to make to how we work with you. However, some language and behaviour is always unacceptable and we will always draw your attention to this and take appropriate action.

Where your behaviour is so extreme that it threatens the immediate safety and welfare of our staff we may report the matter to the police or consider taking legal action. In such cases, we may not give you prior warning.

6. Examples of unreasonable behaviour/actions?

The following is a list of some actions and behaviours which may be deemed as unreasonable, unreasonably persistent, (or vexatious/manifestly unreasonable under FOI/EIR). This list 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 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 (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 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 (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, Members, 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 officers or Members, writing lengthy complex letters every few days and expecting an immediate response;
- Submitting repeat complaints or information 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, associates or membership of a group or body to attempt to re-open a complaint already pursued by a complainant or to try to further requests or complaints already pursued ; or
- Frequently using public questions at a meeting of the Council or a Committee to pursue a complaint or information request(s):
- Combinations of some or all of the above or other actions that are judged to be unreasonable.

The following sections set out the procedures in relation to non-FOI and FOI cases

For non-FOI related cases (sections 7 – 10)

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

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

The actions we take will depend upon the nature and extent of the behaviour(s). 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.

When an officer reports a customer demonstrating unreasonable behaviour, the Town Clerk, in conjunction with the Chairman and Vice-Chairman of the Policy and Finance Committee and taking advice from the Monitoring Officer, will review the case within seven working days. A letter may be sent to the customer explaining that their conduct is becoming a concern. The letter will request that the behaviour exhibited is moderated and will suggest, where appropriate, who the customer should contact within the Council over their concerns. The letter will also advise what further actions may be taken if the request is ignored and a copy of this policy included. The customer will be asked to acknowledge the letter within seven working days.

Where the customer acknowledges the initial warning letter, the Town Clerk or their nominated representative will monitor the situation to ensure the behaviour has been moderated.

If the customer does not acknowledge the letter within seven working days there are two further stages which must be followed for a customer to be made unreasonably persistent or their unreasonable behaviour recognised as such. The Town Council may choose to appoint an external body to act on their behalf to provide this service.

Stage 1 (Formal prior warning)

If customer ignores the initial letter and is deemed to be unreasonably persistent or demonstrating unreasonable behaviour, the Town Clerk or their nominated representative will issue a formal 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 or their nominated representative to try and resolve the dispute / complaint / issue and explain to the customer why their behaviour is unacceptable;
- Advising of a single 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 and Persistent Complaints policy.

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

Should such action be necessary the customer's name will be added to the Council's register as having been sent a formal prior warning letter and a report will be submitted to the next available meeting of the Policy and Finance Committee or the next Full Town Council meeting if earlier and the Town Clerk feels the matter is of sufficient

urgency. In either case the report will be received in confidential part two of the meeting.

Stage 2 (Full implementation of the policy)

- Full implementation of the policy will be undertaken by the Town Clerk, or their nominated representative, in liaison with the Policy and Finance Committee;
- Before the policy can be fully implemented, the Town Clerk, or their 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 Customer Feedback Policy and stage 1, a formal prior warning letter has been sent to the customer as outlined above;
- Once satisfied, the Town Clerk, or their nominated representative will take a report (factual and unbiased) to the 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 Policy and Finance Committee is to consider if the customers contact with the Council is unreasonably persistent, it will not examine the complaint overall.
- Once completed, the report and recommendations from the Policy and Finance Committee will be passed to the Town Clerk who will check the report prior to it being submitted to the next available meeting of the Town Council for consideration;
- If the Town Council takes the decision to make the customer unreasonably persistent and apply restricted access, the Town Clerk or their nominated representative will write to the customer with a copy of the Unreasonable Customer Behaviour and Persistent Complaints Policy explaining:
 - why the decision has been taken;
 - what it means for their contacts with the Town Council;
 - how long any restrictions will last; and
 - what the customer can do to have the decision reviewed.
- Should a customer who has been declared unreasonably persistent 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 before the new issues are processed.
- The customer will be added to the Council's register as being declared by the Town Council as a persistent complainant, also ensuring relevant officers/Members are made aware.

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

The Town Council will appoint a named officer or representative 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 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.

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 without this being considered as a breach of the Code of Conduct for Members.

9. 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 and Social Care Ombudsman (LGSCO).

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

10. 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 **12 months** but will be subject to a review at **6 months** by the Town Clerk or their nominated representative, reporting to the next available Policy and Finance Committee meeting. The customer will be advised of the review and outcome in writing.

At the end of the designated period of restrictions (normally **12 months**), the Town Clerk or their nominated representative will review the case, reporting to the Policy and Finance Committee.

Where the review finds no grounds for continuing restrictions these should be lifted and relationships restored to normal.

Where it is recommended that restrictions are to continue beyond **12 months**, the report should be evidence based and with good grounds for the extension. The report will be submitted to the next available meeting of the Town Council to approve and reappoint representatives to act for the Council in this case.

The Town Clerk (or their nominated representative) will write to the customer to advise them of the outcome of the review by the 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 (normally **six months**).

11. Confidentiality, legal requirements and non-compliance

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

For FOI/EIR related cases (sections 12-18)

The following sections cover FOI 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).

Section 14(1) of the FOIA: The Council does not have to deal with requests that are vexatious under this section. This applies only to the request and not the requestor so there should be a careful assessment before a request is classified as vexatious. The Information Commissioner's Office (ICO) may be able to provide guidance and has set out indicators that may identify vexatious requests:

- Abusive or aggressive language is used;
- The requests are placing an undue burden on the Council;
- The requests form part of a personal grudge;

- The requests are unreasonably persistent;
- The requestor is intransigent;
- The requests are frequent and/or overlapping on the same issue;
- The requests are designed to cause annoyance;
- The requests require a disproportionate effort to fulfil;
- The requestor is using the information request route to pursue other complaints or grievances against the Council.

The application of s.14 (1) should be considered where it is believed that the request is disproportionate or unjustified.

12. 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. There should be an attempt to work with the requester whilst taking account of the facts of the matter and any relevant history.

13. 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 Town Clerk in conjunction with the responsible officer 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 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) under the EIR 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.

14. 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.

15. 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.

16. Dealing with requests that are manifestly unfounded or excessive

A request for personal information made as a Subject Access Request (SAR) under UKGDPR can be refused if it is considered manifestly unfounded or excessive.

The ICO guidance says that a request may be manifestly unfounded if:

- the individual clearly has no intention to exercise their right of access. For example an individual makes a request, but then offers to withdraw it in return for some form of benefit from the organisation; or
- the request is malicious in intent and is being used to harass an organisation with no real purposes other than to cause disruption.

For example:

- the individual has explicitly stated, in the request itself or in other communications, that they intend to cause disruption;
- the request makes unsubstantiated accusations against you or specific employees;
- the individual is targeting a particular employee against whom they have some personal grudge; or

- the individual systematically sends different requests to you as part of a campaign, e.g. once a week, with the intention of causing disruption.

NOTE: You must consider a request in the context in which it is made, and you are responsible for demonstrating that it is manifestly unfounded.

In addition, you should not presume that a request is manifestly unfounded because the individual has previously submitted requests which have been manifestly unfounded or excessive or if it includes aggressive or abusive language.

The inclusion of the word “manifestly” means there must be an obvious or clear quality to it being unfounded. You should consider the specific situation and whether the individual genuinely wants to exercise their rights. If this is the case, it is unlikely that the request will be manifestly unfounded.

17. What does excessive mean?

A request may be excessive if:

- it repeats the substance of previous requests and a reasonable interval has not elapsed; or
- it overlaps with other requests.

However, it depends on the particular circumstances. It will not necessarily be excessive just because the individual:

- requested a large amount of information, even if you might find the request burdensome. Instead you should consider asking them for more information to help you locate what they want to receive, please see 'Can we clarify the request?'
- wanted to receive a further copy of information they have requested previously. In this situation a controller can charge a reasonable fee for the administrative costs of providing this information again and it is unlikely that this would be an excessive request;
- made an overlapping request relating to a completely separate set of information; or
- previously submitted requests which have been manifestly unfounded or excessive.

When deciding whether a reasonable interval has elapsed you should consider:

- the nature of the data – this could include whether it is particularly sensitive;
- the purposes of the processing – these could include whether the processing is likely to cause detriment (harm) to the requester if disclosed; and

- how often the data is altered – if information is unlikely to have changed between requests, you may decide you do not need to respond to the same request twice. However, if you have deleted information since the last request you should inform the individual of this.

18. Refusal to comply with a request

Where the Council is refusing to comply with a request, you must inform the individual without undue delay and within one month of receipt of the request of:

- the reasons you are not taking action;
- their right to make a complaint to the ICO or another supervisory authority; and
- their ability to seek to enforce this right through a judicial remedy.

You should also provide this information if you request a reasonable fee or need additional information to identify the individual

19. Record Keeping

The Town Clerk will keep adequate records of the details of the case and action taken. The register will also include cases where an initial warning letter has been sent.

Records will be kept of:

- The name and address of each member of the public who has been identified as unreasonably persistent, vexatious or abusive and any other person who aids the complainant;
- When the restrictions came into force and end
- What the restrictions are
- When the person was advised and copies of correspondence
- Copies of all correspondence with appointed external representatives
- Dates of and copies of all reports to Council Committees.

Adequate records should also be kept to show:

- When a decision is taken not to apply the policy when an officer has asked for this to be done, or
- When a decision is taken to make an exception to the policy once it has been applied, or
- When a decision taken not to put a further complaint from this customer through the complaints procedure for any reason, and
- When a decision is taken not to respond to further correspondence, make sure any further letters or emails from the customer are checked to pick up any significant new information.

Summary of procedure

