



Bingham Town Council

Vexatious Complaints and Unreasonable Conduct Policy

Introduction

This policy is for dealing with abusive, persistent or vexatious complaints /complainants and unreasonable conduct.

The policy identifies situations where conduct and/or a complainant, either individually or as part of a group, or a group might be considered to be unreasonable, habitual or vexatious.

The Council defines unreasonably persistent and vexatious complainants and unreasonable conduct as those who, because of the manner, frequency or nature of their contacts with the Council, hinder the Council's ability to deliver its services to other users.

The description 'unreasonably persistent', 'vexatious' and unreasonable conduct may apply separately or jointly to a particular person or group.

Policy terms

In this policy the term habitual means 'done repeatedly or as a habit'. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. The term unreasonable conduct is behaviour considered to be harassing, threatening, abusive, aggressive, intimidating, humiliating, or undermining.

This policy intends to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.

This policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998.

Habitual or vexatious complaints or persistent unreasonable conduct and contact can be a problem for Council staff and members. The difficulty in handling such contact or complainants is that they are time consuming and are a wasteful use of resources in terms of Officer and Member time. While the Council endeavours to respond with patience and sympathy to the needs of all individuals or groups, there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

Raising of 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 someone being regarded as a vexatious or 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 vexatious or unreasonably persistent.

The aim of this policy is to contribute to the overall aim of dealing with all complainants and conduct in ways which are demonstrably consistent, fair and reasonable.

Habitual or Vexatious Complaints and Unreasonable Conduct.

The following definitions of habitual or vexatious complainants and unreasonable conduct will be used: *The repeated and/or obsessive pursuit of:*

- (1) unreasonable complaints and/or unrealistic outcomes; and/or*
- (2) reasonable complaints in an unreasonable manner.*
- (3) continuous unacceptable contact and conduct that is related or unrelated to the Council's functions and duties*

Examples of unacceptable behaviour (the list is not exhaustive)

- The way in which, or frequency with which, individuals make with or raise complaints with staff or how the person or group responds when a response is received.
- The person has insufficient or no grounds for their complaint or contact and are contacting staff or members only to annoy (or for reasons that he or she does not admit or make obvious)
- Refuse to specify the grounds of a complaint despite offers of assistance
- Refuse to co-operate with the complaints process
- Refuse to accept that issues are not within the remit of the complaints policy despite having been provided with information about the scope of the policy and procedure
- Refuse to accept that issues are not within the power of the Council to investigate, change or influence
- Contact with members or staff detailing a complaint or issue, therefore not following a complaints procedure
- Insists on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (e.g. insisting that there must not be any written record of the complaint)
- Make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- Make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint or subject
- Make 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 questions, frequent and/or complex letters, telephone calls or emails)
- Harass or verbally abuse or otherwise seek to intimidate staff or members dealing with their complaint, in relation to their complaint or any other issue by use of foul or

inappropriate language or by the use of offensive and racist language or publish their complaints in other forms of media

- Raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- Introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
- Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- Deny statements they made at an earlier stage in the complaint process
- Are known to have electronically recorded meetings and conversations without the prior knowledge and consent of the other person(s) involved
- Adopts a 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Council, but at the same time with, for example, a Member of Parliament, other Councils, elected Councillors of this and other Councils, the Council's Independent Auditor, the Police, other public bodies or solicitors
- Refuse 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
- Make the same complaint or issue repeatedly, perhaps with minor differences, after the formal complaints procedure has been concluded and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- Persistently approach the Council through different routes or other persons about the same issue
- Persist in seeking an outcome which Council has explained is unrealistic for valid reasons
- Refuse to accept documented evidence as factual
- Complain about or challenge an issue based on an historic and/or an irreversible decision or incident with the Council, staff or a Member
- Combine some or all of these features above

Process

In the event that a written complaint is the cause of contact, The Town Clerk will liaise with the Mayor to ensure that the complaint is being or has been investigated properly according to the Bingham Town Councils Complaints Procedure. The Council should consider taking legal advice before writing any letters to the complainant.

Being satisfied that any written complaint has been dealt with properly or is in the process of being dealt with and that the unreasonable conduct falls within the terms of this policy – in the first instance a warning will be considered:-

- (1) The Town Clerk will consult with the Mayor prior to issuing a warning.
- (2) The individual or group will be contacted on behalf of the Town Council by the Town Clerk who will provide a copy of this policy.
- (3) The person will be informed of the reasons why their contact or complaint has been treated as habitual or vexatious and/or unreasonable and the action that may be taken. A request will be made to alter their contact with the staff or members.

(4) The Council will be informed that a person or group has been designated as a habitual or vexatious complainant and/or displaying unreasonable conduct and the outcome of any action will be confirmed.

This initial step may be bypassed for serious breaches

Imposing Restrictions

If the disruptive or unreasonable behaviour continues the Clerk will:

(1) Consult with the Mayor and two Committee Chairs to establish if restriction should be imposed and the way in which the Council will be contacted in the future.

(2) Inform the complainant or person in writing of what procedures have been put in place and for what period. They will also be informed that if they feel that the action taken is unjustified they may make representation to Bingham Town Council either personally or in writing to have the restriction(s) removed or amended.

(3) Inform the Council of the action taken and of the restrictions imposed.

The Council will consider whether any representation made warrant the matter being dealt with under Confidential Business but any decision shall be announced in open Council and communicated in writing to the person or group.

Any restriction(s) that is imposed on the contact with the Council will be appropriate and proportionate and will include a period of time over which the restriction(s) will be in place. In most cases restrictions will apply for six months before review, but in exceptional cases this may be extended.

Restrictions will be tailored to deal with the individual circumstances and may include:-

- Removing contact by telephone except through a third party e.g. a solicitor, or a friend acting on their behalf
- Blocking receipt of emails to the Council staff or members
- Ceasing responses to further contact with the Council or staff by any or all means
- Restricting correspondence to email or letter
- Arranging contact to take place with a named individual only
- Restricting telephone calls to specified days and/or times and/or duration
- Requiring any personal contact to take place in the presence of an appropriate witness
- Removing access to the Council's building, including access to public meetings, for the safety of staff or members

If the behaviour of an individual or group is extreme and threatens the safety or welfare of staff or members, matters will be reported to the police and contact with the complainant removed immediately. This action will be taken in consultation with the Mayor and two Committee Chairs. The complainant may not be given prior warning of the action taken.

Review

The status of an individual or group judged to be unreasonably persistent or vexatious will be reviewed by the Full Council no later than the expiration of the restriction or sooner if considered appropriate. The Council may extend the restriction, impose limited contact or if a more reasonable approach has been demonstrated remove the restriction.

If, after restrictions are lifted, the complainant persists with a pattern of behaviour previously witnessed, further enhanced restrictions will be considered.

This policy will be reviewed annually.

Note

This policy does not cover isolated incidences of poor conduct towards staff or members. Staff and members work within the guidelines of Civility and Respect and retain the right to ask for altered behaviour or remove themselves.

This Vexatious Complaints Policy was considered by the Finance, Policy and Resources Committee at its meeting on XXXXXXXX and was approved by Full Council on XXXXXXXX.

Minute Reference: XX