

Policy on Unreasonably Persistent Complaints and Unreasonable Customer Behaviour

Tunbridge Wells Borough Council is committed to dealing with all complaints fairly and impartially under its Complaints Policy (<https://tunbridgewells.gov.uk/feedback-and-complaints/make-a-complaint>) and Local Government and Social Care Ombudsman (LGO) guidance. We acknowledge that some complaints can be difficult to resolve and can cause anxiety and distress. Whilst we aim to resolve matters there are times when a small number of customers may pursue their complaints in a way which hinders consideration of their complaints and/or has a significant impact on the Council's resources. This may be as a result of:

- Unreasonable behaviour in their dealings with us – which may be one or two isolated incidents, or
- Their unreasonable persistence in attempting to obtain the outcome they want, which is usually a build-up of incidents or behaviour over a longer period ,or
- The complaint itself is unreasonable. Reasons for this may vary. For instance, a customer may pursue a justified complaint in an inappropriate way. Alternatively, a customer dealing amicably with the Council may place unjustifiable demands on staff time by pursuing a complaint which appears to have no substance.

The Local Government and Social Care Ombudsman (LGO) has recognised that that there may be a risk that some individuals may seek to use the Council's complaints process inappropriately or improperly. This policy reflects the guidance issued by the LGO.¹

¹ LGO Guidance available here: <https://www.lgo.org.uk/information-centre/information-for-organisations-we-investigate/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour>

In all complaints that are considered to involve potential unreasonableness, the Council will undertake an assessment of requests that are considered to be vexatious on a case-by-case basis. The assessment will follow current LGO guidance.

The Council will not tolerate abusive, offensive, threatening or other forms of unacceptable behaviour from customers. If this occurs, we will take proportionate action to protect the wellbeing of our staff and the integrity of our processes. It is important that the Council is able to ensure staff time and resources are used effectively. Staff may be prevented from carrying out their roles if they are subject to frequent, lengthy contacts and repetitive information covering the same or similar issues. Whilst this is not an exhaustive list, these are some examples of what we consider to be unreasonably persistent or vexatious complaints and unreasonable behaviour:

- Behaviour or complaints placing an undue burden on the Council. For instance:
 - Refusal to identify the specific issue to be investigated, despite offers of help
 - Refusal to accept documented evidence as being factual
 - Introducing trivial or irrelevant information or issues at a late stage of the complaint, including raising many detailed but unimportant questions, and insisting that they are all answered
 - Refusing to accept a decision on a complaint whilst providing no new evidence
 - Continued pursuit of a complaint which has been dealt with fully through the Council's Complaints Procedure or other repeated demands for action or information
 - Refusing to accept that certain issues are not within the scope of the Council's Complaints Procedure
- Harassment, including:
 - Any kind of abuse or abusive behaviour towards our staff – for example using racist, sexist, homophobic or otherwise discriminatory language to them
 - Excessive number of contacts (in person, by phone, in writing, by email or via social media) placing unreasonable demands on staff
 - Making unjustified complaints and allegations about staff who are dealing with the complaint.
 - Complaints made with an express or apparent inappropriate motive – for example those brought:
 - in aid of a customer's personal grudge against his or her neighbour, the Council or any other individual/organisation, or;
 - with the deliberate intention to cause annoyance.

Complaints, either about a specific issue communicated via social media, or about our social media interaction itself, will be responded to initially via social media. If the situation cannot be resolved to the user's satisfaction, they will be directed to our formal complaints and/or appeals procedures. Defamatory or abusive content will be removed. Occasions when the Council may also remove posts include (but are not limited to): when a post is unlawful,

libellous, harassing, threatening, harmful, obscene, profane, sexually oriented or racially offensive; when the same message, or very similar message(s), are posted more than once ("spamming"); when a post contains personal information, such as contact details, whether posted by a person themselves or by someone else; if the post includes any comments that may compromise the Council's obligation to maintain political neutrality.

Where a decision has been made that we consider a customer's complaint is vexatious or their behaviour is unreasonable, we will explain why and ask for the behaviour to change in the first instance and warn that if the behaviour continues we may take action to restrict the customer's contact with us. Action or restrictions which may be applied may include (but is not limited to):

- Putting in place restricted contact arrangements (in a particular form and/or with a named officer)
- Restricting number of telephone calls and/or time limits for such calls or in some circumstances preventing telephone calls
- Requiring the customer to enter into an agreement about their future contacts

Other options may be considered dependent on the customer's particular circumstances. In circumstances where behaviour becomes so extreme that it may threaten the immediate safety of staff we may report the matter to the police or consider taking legal action. In this instance, we may not provide prior warning to the customer.

The relevant Head of Service or Director considering the complaint will decide which if any or all parts of this policy are imposed. Once the decision is made, the Head of Service or Director will write to the customer to notify them of any restricted contact arrangements that have been imposed, the duration of the arrangement, and the customer's right to appeal the decision.

Restricted contact arrangements will normally be put in place for no longer than six months (but may be less) before being reviewed by the relevant Head of Service or Director and the Head of Policy and Governance or relevant Director. The Council may decide to move its review of restricted contact arrangements for persistently unreasonable customers to an annual basis.

When the arrangement is reviewed, the relevant Head of Service or Director will normally write to the customer again, notifying them of the decision either to lift the arrangements, to continue the arrangements, or to place further impositions on contact. Where restrictions are imposed or a decision is made to end communication, the customer has a right to request a review within 14 calendar days of the date of the decision letter which will be carried out by the Council's Monitoring Officer. If, in the judgement of the relevant Head of Service or Director, writing to update a customer as to restricted contact arrangements may potentially cause harm to the customer (to the customer's mental wellbeing, for example) the requirement to write to the customer may be set aside.

Where a customer persists in communicating with us about a complaint that has fully completed the complaints procedure, we may decide to end contact with them about the issue. In such cases we will advise the customer of this in writing that we will not respond further to correspondence. Further communications will be read and filed but no further action will be taken unless substantive new evidence is raised within one month. New complaints will be treated on their own merits and previous restrictions will not automatically apply to a new matter.

Tunbridge Wells Borough Council – 24 March 2023