

Spelthorne Borough Council

Unreasonably persistent, vexatious or abusive Complaints Policy



www.spelthorne.gov.uk/complaints

customer.services@spelthorne.gov.uk

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Customer Service Centre, Spelthorne Borough Council,
Knowle Green, Staines upon Thames, TW18 1XB



1. Introduction

- 1.1 Spelthorne Borough Council is committed to improving the quality of life for local people. We strive to get it right first time, every time. We value all kinds of customer feedback and expressions of dissatisfaction are treated seriously and recognised as a way for the Council to identify and implement service improvements. The Council is also accountable for the proper use of public money and must ensure that money is spent wisely and achieves value for all our customers.
- 1.2 All complainants have the right to have their concerns examined in line with our complaints procedure. In most cases, dealing with a complaint is a straightforward process but there are a small number of complainants or customers who because of the frequency, nature or tone of their contact with us, adversely affect our ability to do our job and provide a service to others.
- 1.3 We will refer to these complainants/customers as unreasonably persistent, (unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with the authority, hinder the authority's consideration of their, or other people's, complaints) or vexatious and apply this Policy. Those so identified will be treated consistently, honestly and proportionately whilst ensuring that other service users, officers and the Council as a whole, suffer no detriment.
- 1.4 For the purposes of this policy, unreasonably persistent or vexatious complainants/**customers** are those whose contact:
 - clearly does not have any serious purpose or value; or
 - is designed to cause disruption or annoyance; or
 - has the effect of harassing the Council (which includes individual officers); or
 - is politically motivated - where the complaint is used to bring into question another political party's ethos, to fuel personal political animosities or to solely meet the interests of a particular political party; or
 - can be considered as obsessive or unreasonable.

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

- Using abusive or foul language on the telephone
- Using abusive or foul language face to face
- Using abusive or foul language about staff on social media channels
- Any form of intimidating or threatening behaviour
- Sending multiple emails
- Leaving multiple voicemails

We will take action to protect staff from such behaviour.

1.6 This Policy should be read in conjunction with:

- Spelthorne Council's Complaints Policy
- Accident and Incident Reporting Policy
- Abuse and Violence at Work Policy
- Lone Working Policy
- Customer Charter
- Local Government and Social Care Ombudsman guidance on managing unreasonable behaviour.

1.7 We will not normally limit the contact which complainants have with council staff or offices unless the Council determines that this is necessary in accordance with this Policy.

2. Aims 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 The purpose of this document is to provide staff with a framework for how to manage vexatious and persistent complainants/customers in a consistent, proportionate and professional manner across the authority.

2.3 This policy identifies:

- The actions and behaviours of a complainant/customer which may be considered to be abusive, vexatious or unreasonably persistent,
- The action we can take to stop or curtail this behaviour,
- Considerations before further action is taken,
- Who can decide to implement such action,
- How to implement the action,
- What the complainant can do to challenge the decision of the Council.

3. **Actions and behaviours of unreasonably persistent or vexatious complaints**

3.1 Complainants/customers or anyone acting on their behalf may be deemed to be vexatious or unreasonably persistent if one or more of the following behaviours applies (this list is not exhaustive, nor does a single behaviour on its own necessarily imply that the complainant will be considered as being in this category):

- Refusing to specify the grounds of a complaint, despite help from the Council.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Making what appear to be groundless complaints about the staff dealing with the complaint and attempting to have them dismissed or replaced.
- Taking an excessively 'scattergun' approach – complaining officially to the Council as well as raising the same complaint with others such as MP/councillor/Monitoring Officer/police/solicitors and/or Local Government and Social Care Ombudsman.
- Insisting the complaint is 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 Chief Executive).
- Changing the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.

- Denying statements made at an earlier stage in the complaint process.
- Raising trivial or irrelevant new information whilst the complaint is being investigated and expecting this to be taken into account and commented on
- Raising lots of detailed but unimportant questions and insisting they are answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other people involved.
- Making persistent or excessive demands on the time and resources of staff (for example lengthy phone calls, emails to numerous Council staff, or detailed letters/emails every few days, and expecting immediate responses or demanding a response by a specific date which is deemed to be unreasonable)).
- Submitting correspondence that impacts the Council from carrying out business as usual tasks.
- Attempts to harass, verbally abuse or otherwise seek to intimidate staff dealing with their complaint by use of foul or inappropriate language or by the use of offensive or discriminatory language.
- Sending an unreasonable number of letters, emails and/or phone calls in relation to a specific complaint or complaints.
- Registering repeat complaints, perhaps with minor differences, after the complaints procedure has concluded and insisting that the minor differences make these 'new' complaints which should be put through the full complaints procedure.
- Refusing to accept the final decision of a complaint, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given.
- Persistently contacting the Council through different routes about the same issue.
- Someone who is not looking to resolve a dispute but is looking to cause unnecessary difficulties or problems to the Council.
- Refusing to accept a complaint is outside the remit of the complaints' procedure.
- Refusing to accept that matters aren't within the Council's power to investigate if the matter is the responsibility of another organisation.

- 3.2 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 complainant being regarded as vexatious.
- 3.3 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 them to be labelled unreasonably persistent.

4. How we will decide to implement this policy

- 4.1 This policy will be used as a last resort once all measures have been taken to resolve issues under the Council's Complaints procedure. We will make sure we have communicated appropriately with the complainant/customer and that no new information that will affect the decision has been put forward.
- 4.2 Before taking a decision to invoke this policy, consideration should be given to whether any further action is necessary, such as whether it is appropriate to convene a meeting with the complainant/customer and a senior officer in order to seek a mutually agreeable resolution.

5. Written Warning

- 5.1 In the first instance the service manager investigating the complaint/dealing with the customer will consult with their Group Head, prior to the issue of a written warning to the complainant/customer. The written warning (by letter or email) will explain the behaviour that is causing concern and ask the complainant/customer to change this behaviour. The Group Head will explain the actions that the Council may take (paragraph 6.4 below) if the behaviour does not change.
- 5.2 A copy of this policy will be included with the written warning to the complainant/**customer**.

6. Applying this Policy

- 6.1 If the disruptive behaviour continues, the decision to apply this policy will be taken by the Group Head in consultation with the Monitoring Officer or the Deputy Monitoring Officer, where the Monitoring Officer has a conflict of interest due to their involvement in the complaint or with the complainant/customer.

- 6.2 Where more than one department is being contacted by the complainant/customer, perhaps with different complaints, the Group Head(s) should agree a cross-departmental approach and designate one officer to co-ordinate the Council's response(s).
- 6.3 In applying this policy, the Group Head will consider the restriction to be imposed on the complainant's/customer's contact with the Council:
- as is appropriate and proportionate to the individual circumstances of the case and;
 - for a period of time between three and six months;
 - and the period of time after which the decision will be reviewed by the Council.
- 6.4 The Group Head will decide the most appropriate restriction according to the level and nature of the complainant's contacts and this may include:
- Banning the complainant/customer from making contact by telephone except through a third party e.g. solicitor/councillor/friend acting on their behalf.
 - Banning the complainant/customer from sending emails to an individual and/or all council officers and insisting they only correspond by letter.
 - Banning the complainant/customer from accessing any council building except by appointment.
 - Requiring contact to take place with one named member of staff 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 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 should be identified who will read future correspondence).
 - Informing the complainant that any further complaints from him or her will only be considered if a Chief Officer agrees that it warrants investigation.

- 6.5 The Group Head will contact the complainant/customer in writing to advise them that the Council is treating them as 'unreasonably persistent or vexatious' and explain:
- Why the council has taken the decision
 - What action the council is taking
 - The duration of that action
 - The review process of this policy
 - The right of the complainant/customer to contact the Local Government and Social Care Ombudsman about the Council's decision.
- 6.6 The Group Head will enclose/attach a copy of this policy in the letter/email to the complainant.

7. Record keeping

- 7.1 If a decision is made to apply this policy, the following information will be recorded and shared with relevant officers within the Council. Only where necessary, and under strict requirements of confidentiality, relevant councillors will also be informed.
- 7.2 The Monitoring Officer will record in a central Register, kept specifically for this purpose:
- The name and address of a complainant/customer who is being treated as unreasonably persistent or vexatious under this policy
 - What restrictions on contact have been imposed
 - When the restriction comes into force and is due for review
 - When the customer, relevant officers and if applicable, relevant councillors, were advised of the actions being taken.
 - The reasons why the complainant/customer is on the Register
- 7.3 Where a complainant/customer continues to behave in a way which is unacceptable, the Group Head may decide to refuse all contact with them and stop any investigation into their complaint.

- 7.4 Where the behaviour is so extreme, becomes abusive or threatens the immediate safety and welfare of staff and/or their families, the Council will consider other options, including for example placing a person on the Council's Staff Safety Register, reporting the matter to the Police, taking legal action or ceasing contact. In such cases, the Council may not give the complainant/customer prior warning of that action.

8. **Appealing a decision to restrict contact**

- 8.1 A complainant/customer can appeal the decision to place them on the 'unreasonably persistent or vexatious complainant list' within 15 working days of being notified of our decision. This appeal should be made in writing, with reasons why they want to appeal and sent to:

Group Head for Corporate Governance
Spelthorne Borough Council
Knowle Green
Staines-upon-Thames
TW18 1XB

Or by email to **customer.services@spelthorne.gov.uk** For the Attention of the Group Head for Corporate Governance.

- 8.2 A response will be provided within 20 working days. If the complainant/customer remains dissatisfied with the decision, they will be advised of their right to approach the Local Government and Social Care Ombudsman.

9. **New complaints or correspondence from people who have been treated as vexatious or unreasonably persistent**

- 9.1 Any further correspondence from an unreasonably persistent or vexatious complainant/customer will be read to establish whether new and significant information is provided.
- 9.2 New complaints from people who have come under this policy will be treated on their merits. The Group Head will decide whether any restrictions which have been applied previously are still appropriate and necessary in relation to the new complaint.
- 9.3 The Council does not support a "blanket policy" of ignoring genuine service requests or complaints where they are founded.

10. Review process

10.1 A review will be undertaken at the time the restriction is due to end.

10.2 The appropriate Group Head, in consultation with the Monitoring Officer, will:

- Review any contact from the complainant during the period of the restriction and whether it continues to constitute unreasonable or vexatious behaviour as defined in this policy,
- Write to the complainant/customer with the outcome of the review and reasons for the decision, within 7 working days of the date on which the review was due,
- Inform relevant members of staff and if applicable, relevant councillors, of the review decision,

Record the outcome of the review in the central Register and the date on which the complainant was notified.

10.3 If the complainant/customer is dissatisfied with the review decision, they will be advised of their right to approach the Local Government and Social Care Ombudsman.

10.4 The existence and operation of this procedure will be reviewed, shared with and explained to all relevant staff.

Equality Act – In applying this Policy and in line with our legal responsibilities, we will provide reasonable adjustments to ensure no one is disadvantaged.

Version Control

Policy Name: Unreasonably persistent, vexatious or abusive Complaints Policy

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Document owner: Monitoring Officer

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