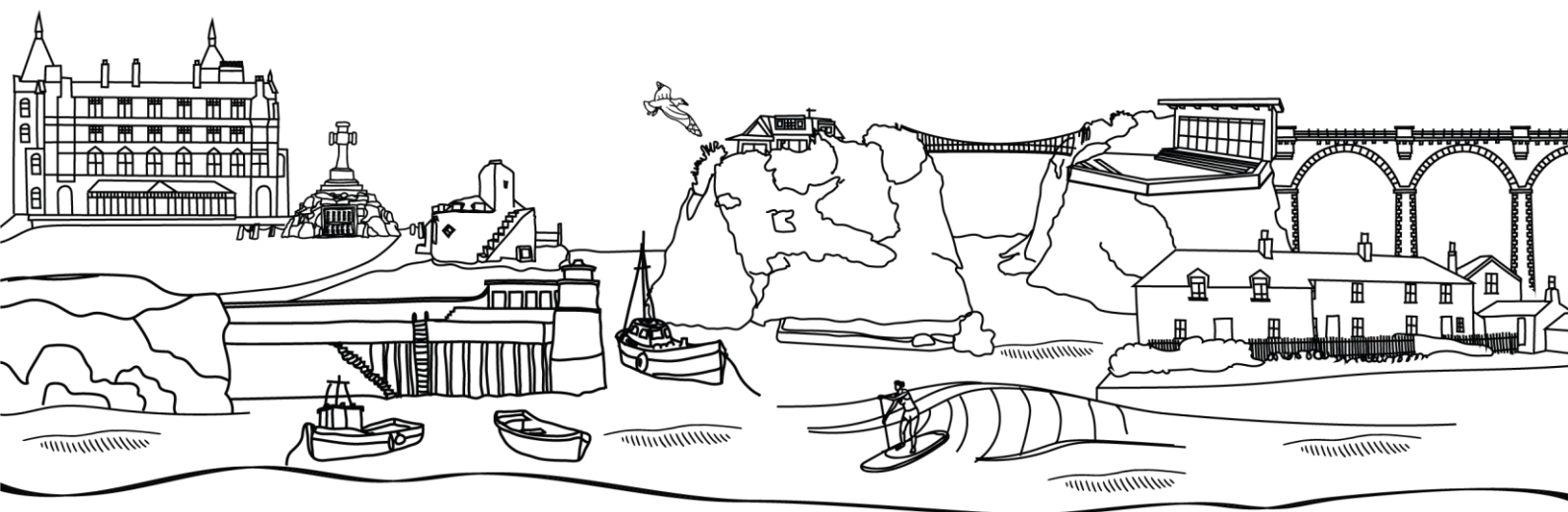




NewquayCouncil

CorporateService

Policy:	Persistent or Vexatious Complaints Policy
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Policy/Procedure File Status

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1.0 Policy Introduction

- 1.1 Newquay Town Council wants to be informed by its residents when services are delivered to a high standard so we know that we are on the right track, but we also want to know when things go wrong. We are committed to dealing with complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service the Council does not normally limit the contact that customers have with its officers.
- 1.2 However, a very small minority of residents/public make complaints that are vexatious, in that they persist unreasonably with their complaints, or make complaints in order to unnecessarily aggravate the Council rather than genuinely to resolve a grievance. This may involve making serial complaints about different matters or continuing to raise the same or similar matters repeatedly. Their method and frequency of contact with the Council can hinder the efficient consideration of their complaints and the ability of officers to provide a satisfactory outcome. Some individuals may also display threatening and abusive behaviour or harassment when contacting the Council.
- 1.3 How we manage such complainants will depend upon the individual circumstances of the case. If for instance their actions adversely affect the health and safety of staff and our ability to do our work or provide a service to others, we may need to address unacceptable behaviour by restricting contact with our officers.
- 1.4 Information about individuals who are dealt with under this policy may be stored on either the vexatious complaints register and/or the cautionary contact database. The vexatious complaints register records details of individuals who the Council considers to be unreasonably persistent in making their complaints (Appendix 1 provides some examples). The cautionary contact database keeps a record of individuals who have displayed violent or threatening behaviour during the course of making their complaints or in other dealings with the Council. Inclusion on a register will mean that there will be a restriction on contact with our officers to either written or recorded communication or through a third party advocate or representative.

2.0 Newquay Town Council's policy commitment

- 2.1 The Council recognises that it is important to distinguish between people who make a number of complaints because they genuinely believe things have gone wrong, and people who are simply being difficult. We acknowledge that complainants will often be frustrated and aggrieved, and it is therefore important to consider the merits of their case rather than their manner in which they go about their complaint.
- 2.2 Similarly, even though someone has made vexatious complaints in the past, it cannot be assumed that the next complaint is also vexatious. Each complaint must be considered, and a decision made as to whether it is vexatious or genuine. This policy should only be applied in limited and exceptional circumstances and should be viewed as a last resort.

3.0 Equality Aim and scope of the Policy

- 3.1 This policy and guidance covers all complaints made to the Council. There are separate procedures for handling Freedom of Information (FOI) requests. This and the dealing of vexatious information requests will be handled under the Council's FOI procedures and in compliance with the provisions of the Freedom of Information Act 2000.
- 3.2 For illustration Appendix 1, lists a range of scenarios that the Council may consider to be vexatious. This list is not exhaustive. A complainant may display one or several of these behaviours and the officer should exercise their judgment based on their experience with the complainant and the circumstances of the case as to the determination of the treatment of the complainant.

4.0 Review

- 4.1 This policy and the guidance will be reviewed by the Council's Governance and Resources Committee as needed or when an incident arises which necessitates a review to be undertaken. This will help us ensure that this policy is fit for purpose and is consistent with the Council's core value of Fairness for All.

5.0 Guidance for Officers

Handling vexatious complaints

Complaints regarding the same matter

5.1 If the complainant:

- refuses to pursue the complaint to the next stage; or
- the Complaints' and/or Ombudsman's processes have been exhausted (where an Ombudsman process is relevant and applies); and
- the complainant continues to correspond; then

the correspondence should be considered by an officer familiar with the complaint. If it raises no significant new matters and presents no new information, the Manager handling will write to the complainant to inform them that the Council will not enter into any further correspondence about the matter.

5.2 If the complainant still does not heed this information, the Manager may decide that any further correspondence that does not raise any significant new matters or present any new information may be added to the file but with no further acknowledgment or action.

5.3 If the complaint does contain new information of a material nature, this must be evaluated by the officer dealing with the complaint and an appropriate response should then be sent to the complainant. The complainant will then re-enter the complaints procedure at an appropriate stage

Complaints about different matters

5.4 If a complainant repeatedly makes complaints about different matters, each complaint should normally be considered in the usual way under the complaints procedure. The following are potential exceptions to this rule:

- If the volume of correspondence starts to impact on council resources (where several services are involved then the aggregate resources expended should be considered), it may be useful to hold a meeting with the complainant to find if there is a

more effective way for the correspondence to be dealt with. This may bring to light an underlying, or common thread for the various complaints.

- If the new complaints are trivial, or have little or no significance in terms of the service provided, it may be appropriate to close down the complaint. This should only be done with the agreement of a Senior Manager or Director/Chief Executive as appropriate. The complainant should be advised of this course of action, and if they are dissatisfied, that they may appeal the decision. Any appeal will be reviewed by another Manager (not involved in the original decision) or a director, Chief Executive or member(s) in that order. Any further complaints regarding the same issue should then be kept for the file with no further action.
- Complaints may also be communicated by phone or in person. If the complainant makes either repeated calls or personal visits, either to discuss an existing complaint or to make a new complaint, which are either disproportionately time consuming or disruptive, it may be appropriate to restrict future contact. The Council's policy is for all complaints to be in writing/written form (email or letter). However, exceptions will be made where appropriate i.e. disability prevents this.

Restricting Contact

5.5 Any restrictions will be agreed by a Senior Manager, Director or Chief Executive and will be appropriate and proportionate to the nature of the complainant's contacts with the Council at that time. The following are examples of the types of restriction which may be used:

- Limiting the complainant to one medium of contact (telephone, letter, e- mail)
- Stricter management of telephone calls (regarding frequency and duration)
- Requiring the complainant to communicate only with a single point of contact which may be the monitoring officer (or their office) at Cornwall Council if appropriate.
- If a complaint is currently going through the Council's complaints procedure, asking the complainant to enter into a written

agreement about their future conduct if the complaint is to be progressed

- Requiring any personal contacts to take place in the presence of an independent third party
- Banning a complainant from some or all of the Council's premises. This will especially be the case if the complainant poses a risk to the safety or wellbeing of Council staff or other service users. In these circumstances, the complainant's name may be added to the cautionary contact database. See further guidance regarding the handling of threatening or abusive behaviour below. Where appropriate, officers should also refer to the procedures regarding the cautionary contact database.

- 5.6 Where this policy is applied, the complainant will be told in writing why a decision has been made to restrict future contact, the restricted contact arrangements, the length of time that these restrictions will be in place (unless they are for the foreseeable future until confirmed otherwise) and what they can do to have the decision reviewed.
- 5.7 Wherever possible, we will apply restrictions in a way that allows a complaint to progress to completion through our complaints process. We will try to maintain at least one form of contact even if this is through a third-party such as solicitors or the Monitoring Officer (as examples).
- 5.8 In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other residents and our employees do not suffer any disadvantage and the resources of the council are used as effectively as possible. When the Manager handling the complaint feels that it is appropriate to include a complainant on the relevant register, they need to complete the form attached at Appendix 2.
- 5.9 Where it is decided to restrict contact, a note will also be made in the relevant record relating to that complainant. It should be noted that the complainant will have right of access to records, under the Data Protection Act 2018, containing personal information relating to them. There may be circumstances where some of the information may legitimately be withheld. Officers should seek advice from the Council's advisors and Data Protection Officer if in any doubt and the Data Protection Officer or delegated officer must handle such requests for access to information held.

- 5.10 All information held on the register will be reviewed every six months as part of the evaluation and review process for the effectiveness of the policy unless the Senior Manager, Director or Chief Executive has stipulated a shorter period in their referral. When a review is due the Senior Manager, Director or Chief Executive will undertake it. Reviews should be carried out within 20 working days. Each review should be reported to the next Governance and Resources Committee meeting for information and monitoring purposes.
- 5.11 Restricting contact in this way does not mean that the communications from the complainant will not be dealt with. Where further information is provided in order for the Council to investigate the complaint then this should be handled in the normal manner.
- 5.12 In some cases where a matter is complex or unusual, the Senior Manager may take the matter to a Director or Chief Executive to seek advice. In such instances, this will not preclude those officers from performing reviews of the case in the future, as it is still the responsibility of the original Senior Manager to make the decision. The advice from a Director or Chief Executive is simply that.

Complainants from vulnerable individuals

- 5.13 Some individuals may on occasions seem agitated or are otherwise unable to articulate their complaint or dissatisfaction. This may be due to mental ill health, personality disorder or other conditions. Where staff are aware that a complainant may be vulnerable any communication should be handled sensitively. In these cases officers should work together with the individual and the relevant professionals to find a solution. Consideration should be given to finding an advocate or an appropriate individual who may act in the interest of the complainant to resolve what issues there may be.

Threatening and abusive behaviour or harassment

- 5.14 Newquay Town Council believes that everyone has the right to be treated with dignity and respect and that harassment is totally unacceptable. It has formally adopted the national Civility and Respect Pledge and so will always call out unacceptable behaviour and act accordingly. The Council will work to prevent any form of harassment from happening in the first instance and where it has already occurred, will work to prevent it from happening again.

5.15 Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may also include the following:

- Bullying may be characterised as offensive, intimidating, malicious, insulting or humiliating behaviour, an abuse or misuse of power or authority that attempts to undermine or injure an individual or group of individuals.
- Discrimination or victimisation is essentially any act of inappropriate differential treatment, intentional or otherwise, direct or indirect, which is based on an individual's identity.

5.16 If staff are subjected to any threatening or abusive behaviour while dealing with a complaint or even becomes victim of a physical assault then the relevant Council policies should be followed to safeguard the wellbeing and safety of Council officers. At the same time a restriction on contact with the complainant may be imposed with immediate effect at the discretion of the Senior Manager, Director or Chief Executive. Depending on the nature or severity of the incident the relevant officer may also report the matter to the police.

5.17 It is possible that any such abusive, threatening or violent behaviour will have wider implications on the relationship the Council has with the complainant that goes beyond the scope of handling complaints. To mitigate the risk of such abuse or violent behaviour in whatever context, it may be necessary to consider the complainant's inclusion on the Council's Cautionary Contact Database.

5.18 Council officers have responsibilities to take reasonable steps to protect their own health and safety. Officers, in conjunction with their line managers should refer to relevant policies and procedures regarding health and safety, including lone working, risk assessments and the guidelines for dealing with violence and abuse at work.

Record Keeping

5.19 Adequate records will be retained by the relevant service of the details of the case and any action that has been taken. The respective Manager will retain as a minimum the following information about complainants where restrictions have been applied:

- name and contact details of each complainant
- when the restriction came into force and ends (unless it is on-going)

- review date, outcome and reviewing officer
- details of any restrictions
- if and when the complainant was advised of the decision

6.0 Alternative Formats

- 6.1 Equality Act 2010 – copies of this document in large print (A3 Format) or larger font size can be made available for those with sight impairment on request from the Council Office or by telephoning 01637 878388 or e-mailing the Chief Executive's Office.

7.0 Freedom of Information

- 7.1 In accordance with the Freedom of Information Act 2000, this Document will be posted on the Council's Website www.newquay.gov.uk.

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APPENDIX 1

Some examples of the behaviour of persistent and vexatious complainants (list not exhaustive)

- Refusal to specify the grounds of a complaint, despite offers of assistance with this from Council staff
- Refusal to co-operate with the complaints investigation process or insistence on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice
- Making what appear to be groundless complaints about the employees dealing with the complaints or attempting to use the complaints procedure to pursue a personal vendetta against an employee or team
- Making unnecessarily excessive demands on the time and resources of Council staff whilst a complaint is being looked into
- Refusal to accept information provided, for no apparent good reason
- Changing the basis of the complaint as the investigation process goes on and/or denying statements he/she made at an earlier stage
- Making statements or providing manufactured 'evidence' the complainant knows are incorrect or persuading others to do so
- Raising at a late stage in the process, significant new information which was in the complainant's possession when he or she first submitted a complaint
- Introducing trivial or irrelevant new information or raising large numbers of detailed but unimportant questions and insisting they are all fully answered
- Lodging numbers of complaints in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure
- Refusal to accept that issues are not within the remit of a complaints procedure or demanding outcomes which the complaint procedure cannot in itself provide such as the overturning of court decisions, dismissal or criminal prosecution of staff.

- Electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved
- Pursuing complaint/s with the Council and at the same time with a Member of Parliament/a Councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the Ombudsman
- Seeking to coerce, intimidate or threaten staff or other people involved, whether by use of language, tone of voice or behaviour including body language
- Foul, abusive or offensive language
- Submitting repeat complaints, after the complaints process has been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure
- Using valid new complaints to resurrect issues which were included in previous complaints
- Persistence in contacting the Council and demanding responses or action long after the council has closed the investigation into a complaint and all rights of review and appeal have been exhausted

APPENDIX 2

To complete a **Restricted Contact Register Entry Form**, please use the following link (authorised officers only):

<https://forms.office.com/r/wr3STCKRSj>