



LEDBURY TOWN COUNCIL

2 MAR 2017



REFER AGENDA ITEM 11

LEDBURY TOWN COUNCIL

Unreasonable Behaviour Policy

(Including dealing with abusive, persistent or vexatious complaints and complainants)

1. Introduction

- 1.1. This policy has been produced to create a joint understanding of what is considered acceptable and unacceptable behaviour when working or dealing with officers and councillors of Ledbury Town Council (LTC).
- 1.2. Complaints about LTC are processed in accordance with the Local Government Ombudsman's Guidance of Good Practice. During this process LTC staff inevitably come into contact with a small number of complainants who take up an unwarranted amount of council resources, or impede the investigation of the complaint. The aim of this policy is to identify situations where the complainant could be considered vexatious and to detail how to respond to such situations.
- 1.3. This guidance also reflects the "Guidance note on 'unreasonable persistent' and 'unreasonable complainant' behaviour" issued by the Local Government Ombudsman in January 2007.
- 1.4. Careful judgement and discretion must be used in applying the criteria to identify potential vexatious complainants, and in deciding what action to take in specific cases.
- 1.5. It must be recognised that complainants may sometimes act out of character at times of anxiety or distress, and reasonable allowances should be made for this.
- 1.6. This policy will ensure that LTC staff have a safe working environment, that they are not exposed to unnecessary stress due to the unacceptable behaviour of complainants or others, and enable them to deal confidently and effectively with any unreasonable behaviour.

2. The purpose of this policy

- 2.1. To define the behaviours that are not acceptable and deemed as unreasonable to LTC, including behaviour by people making formal complaints.
- 2.2. To ensure that the ability of staff to conduct business is not adversely affected by those few individuals who behave in an unreasonable manner.
- 2.3. To ensure our staff have a safe working environment and are not exposed to unnecessary stress due to the unacceptable behaviour of others.
- 2.4. To empower LTC staff to deal confidently and effectively with unreasonable Behaviour.

3. Who does this policy apply to?

- 3.1. This policy applies to all members of the public, councillors and all those who deal with Ledbury Town Council.

4. Unreasonable behaviour when contacting Ledbury Town Council

4.1. What behaviour is unreasonable?

- 4.1.1. We recognise that when you contact Ledbury Town Council, you may have reason to feel aggrieved, upset or distressed.

- 4.1.2. We do not view assertive behaviour (for example, putting forward your case in a persuasive manner) as unreasonable.
- 4.1.3. However, we will manage behaviour that is aggressive, rude or abusive, or which places unreasonable demands on our staff under this policy.
- 4.1.4. Unreasonable behaviour is behaviour or language, whether face to face, by telephone, social media or written, that may cause staff to feel intimidated, threatened or abused. Examples may include:
- threats
 - verbal abuse
 - racist and sexist language
 - derogatory remarks
 - offensive language
 - rudeness
 - making inflammatory statements
 - raising unsubstantiated allegations
 - any form of physical abuse.
- 4.1.5. Whilst we accept that those in contact with us may feel angry, it is not considered acceptable when that anger becomes aggression directed towards staff.
- 4.1.6. When social media is used (cyber bullying) we will try to identify the perpetrator, take steps to remove the offending material from view and, where appropriate, initiate action against the offender.

4.2. Unreasonable requests and communication

- 4.2.1. Requests may be considered unreasonable by the nature and scale of service expected. Examples may include:
- requesting responses within unreasonable timescales
 - insisting on speaking with certain members of staff
 - adopting a "capture-all" approach by contacting many staff members and third parties.
- 4.2.2. Communication may be considered unreasonable if, for example, individuals:
- continually contact us while we are in the process of looking at a matter
 - make a number of approaches about the same matter without raising new issues
 - refuse to accept a decision made where explanations for the decision have been given
 - continue to pursue complaints/issues which have no substance
 - continue to pursue complaints/issues which have already been investigated and determined
 - continue to raise unfounded or new complaints arising from the same set of facts.
- 4.2.3. We recognise that our resources, including staff time, have to be used where they can be most effective. This might mean that we cannot respond to every issue in the way a person would like if, in doing so, it would take up what the council regards as being a disproportionate amount of time and resources that could be used elsewhere.

- 4.2.4. Sometimes, due to the volume of work with which we deal, we may not be able to respond immediately to your requests. This does not mean that your concerns are any less important to us. If we have asked for your patience but you continue to pursue your concerns, we may consider such behaviour to be unreasonable.

4.3. How will we manage unreasonable behaviour?

- 4.3.1. All staff at Ledbury Town Council have the authority to manage unreasonable behaviour. The council has a zero-tolerance position on violence and threats against our staff and this behaviour will always be reported to the police.
- 4.3.2. In all other cases, LTC will only restrict communication with you if we have informed you that your behaviour is unreasonable and have asked you to modify your behaviour. We will explain what action will be taken if the warning is ignored and, if you do not modify your behaviour, we will take steps to restrict communications with you.
- 4.3.3. If we decide a restriction is appropriate, LTC will consider which of the options (see section 5) best fits the circumstances. The level of restriction that we apply will be proportionate, taking into account the nature, extent and impact of your behaviour on our ability to do our work.
- 4.3.4. We will be transparent and explain to you what restriction we are putting in place, our reasons for doing so, and how long the restriction will apply.
- 4.3.5. If LTC has already made a reasonable adjustment for you, this will be taken into account when deciding upon the appropriate course of action.

5. Unreasonable behaviour by someone making a formal complaint to Ledbury Town Council

- 5.1. Dealing with a complaint is a straightforward process but, in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint, or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint.
- 5.2. We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner.
- 5.3. We will not normally limit the contact which complainants have with council staff or officers, however we do not expect staff to tolerate unacceptable behaviour by complainants or representation of complainants.
- 5.4. Unacceptable behaviour is explained above (section 3.1.4) and can be applied to complainants.
- 5.5. We will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy, which may include one of the options detailed in section 5.
- 5.6. 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 someone being regarded as a vexatious or an unreasonably persistent complainant.

- 5.7. 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.

5.8. Definitions

- 5.8.1. We have adopted the Local Government Ombudsman's (LGO) definition of ***"unreasonable complainant behaviour"*** and ***"unreasonable persistent complaints"***.
- 5.8.2. We define unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder our consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 5.8.3. Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.
- 5.8.4. Features of an unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category):
- 5.8.5. **An unreasonably persistent and/or vexatious complainant may:**
- have insufficient or no grounds for their complaint and be making the complaint 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 investigation process while still wishing their complaint to be resolved
 - refuse to accept that issues are not within the remit of the complaints policy and procedure 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 (examples could be a complaint about a private car park, or something that is the responsibility of another organisation such as the Local Authority)
 - 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 us, by any means, in relation to a specific complaint or complaints
 - 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 numerous, frequent and/or complex letters, faxes, telephone calls or emails)
 - harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint by use of foul, inappropriate, offensive, sexist or racist language
 - 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 he or she made at an earlier stage in the complaint

process

- electronically record meetings and conversations without the prior knowledge and consent of the other person involved
- adopt an excessively 'scattergun' approach, for instance, pursuing a complaint not only with the council, but at the same time with a Member of Parliament, other councils (including the Local Authority), elected councillors of this and other councils, the council's independent auditor, the Standards Board, the police, solicitors, and the Local Government Ombudsman
- 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 repeatedly, perhaps with minor differences, after the 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 about the same issue
- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons
- refuse to accept documented evidence as factual
- complain about or challenge an issue based on a historic and irreversible decision or incident
- combine some or all of these features
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice.

5.8.6. When the decision has been taken to apply this policy to a complainant, the Clerk to the Council will contact the complainant in writing (and/or as appropriate) to explain:

- why we have taken the decision
- what action we are taking
- the duration of that action
- the review process of this policy
- the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as a vexatious/persistent complainant.

5.8.7. The Clerk to the Council will enclose a copy of this policy in the letter to the complainant.

5.8.8. Where a complainant continues to behave in a way which is unacceptable, the Clerk to the Council, in consultation with the Chair of the Council and/or the Standing Committee, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

5.8.9. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action.

5.9. New complaints from complainants who are treated as abusive, vexatious or persistent

5.9.1. New complaints from people who have come under this policy will be treated on their merits. The Chair of the Council and the Standing Committee will

recommend to a meeting of Full Council whether any restrictions applied previously are still appropriate and necessary in relation to the new complaint. We do not accept a "blanket approach" of ignoring genuine service request or complaints where they are founded.

- 5.9.2. The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know within the council.

5.10. Review

- 5.10.1. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Standing Committee after six months and at the end of every subsequent six months within the period during which the policy is to apply.
- 5.10.2. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.

5.11. Referring unreasonable persistent or vexatious complainants to the Local Government Ombudsman

- 5.11.1. In some cases, relations between councils and unreasonably persistent or vexatious complainants break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs the Ombudsman may be prepared to consider a complaint before the procedure has run its course.

5.12. Record keeping

- 5.12.1. A full record will be retained by the Clerk of the details of the case and the action that has been taken. The Information Access team will retain a record of:
- The name and address of each person/complainant who is treated as abusive, vexatious or persistent
 - When the restriction came into force and ends
 - What the restrictions are
 - When the customer and departments were advised.

6. Options to restrict contact

- 6.1. If you continue to behave unreasonably after we have asked you to modify your behaviour, the options we will consider are:
- 6.2. **Option 1:**
Requiring you to contact a named staff member(s) only. Single point of Contact (SPOC).
- 6.3. **Option 2:**
Restricting contact (whether via telephone, face to face, or digital/email) to specified days and times, as agreed with you.
- 6.4. **Option 3:**
Terminating contact if you persistently raise issues which we have already responded to in full. We will politely explain that we are unable to comment further on the matter and

will ask if there are any other issues you wish to raise. If no new issues are raised and you persist in raising issues which we have already addressed, we will tell you so before ending contact. Where relevant, a written warning will then be sent with a view to limiting future communication to written communication only. If digital/email contact is made under a user name, if necessary, we will aim to seek identity.

6.5. Option 4:

Terminating contact if you are aggressive, rude, abusive or offensive. We will politely ask you to modify your behaviour, but if the behaviour continues we will tell you again that your behaviour is unacceptable and end the call. The Clerk or manager of the member of staff involved will intervene including where relevant a written warning, with a view to limiting future communication to written only. As in Option 3, If digital/email contact is made under a user name, if necessary, we will aim to seek identity.

6.6. Option 5:

Restricting the issues we will correspond on.

6.7. Option 6:

If you send us a large volume of irrelevant documentation, we may return these documents to you. In extreme cases we will advise you that further irrelevant documents will be destroyed.

6.8. Option 7:

If we have already fully explained our reasons for a decision and you have exhausted the procedure to request a review of that decision, we will decline to respond to further correspondence which does not raise new issues. The correspondence will be read and filed but we will not acknowledge your correspondence unless you provide significant new information or evidence relating to the matter.

6.9. Option 8:

We may block or re-direct your emails to a single point of contact (SPOC) if the number and length of emails sent causes difficulties for us to conduct our business.

6.10. Option 9:

We will not respond to correspondence which is abusive or offensive and we will block emails that are abusive or offensive.

6.11. Option 10:

If you make a large number of reports to us which prove to be unfounded, we may ask that in future any further allegations you submit are supported by an independent third party such as the Citizens Advice Bureau, a legal representative or an advocate, to ensure that in future our staff resources are spent in a proportionate way.

6.12. Physical violence, verbal abuse, threats or harassment against our staff will not be tolerated and will be reported to the police, who may decide to prosecute. Any one of the above options (or a combination of these) may be applied to an individual.

6.13. We may in extreme cases take measures in the High Court if any of the above options prove ineffective in dealing with abusive, offensive or vexatious complainants.