



Okehampton Town Council

DRAFT Complaints Policy & Procedure

1. Introduction

A complaint is defined as being an expression of dissatisfaction, about the Council's action, lack of action or about the standard of a service.

For transparency and the benefit of good local administration, Okehampton Town Council has adopted a formal procedure for considering complaints. It is essential that complaints are dealt with positively. Okehampton Town Council is committed to making full use of complaints information to contribute to continuous service improvement.

2. This Complaints Procedure does not apply to:

- i. Complaints against employees which are dealt with under the Council's disciplinary and grievance procedures.
- ii. Complaints against Councillors which are covered by the Code of Conduct as adopted by the Council. If a complaint against a Councillor is received by the Council, the complainant will be referred to the Monitoring Officer of West Devon Borough Council. Further information on the process of dealing with complaints against Councillors may be obtained from the Monitoring Officer of West Devon Borough Council. However, complaints can be dealt with informally in accordance with the Council's Grievance Policy.

Commented [EJ1]: This has changed in line with the Grievance Policy as provided by SW Councils.

The Council will be informed of the nature of complaints against Councillors, ie bullying, when permitted to do so by WDBC. Prior to then information that the Clerk will have been made aware of will remain confidential to the Clerk only. The name of the Councillor and exact details will not be disclosed unless the Councillor is found 'guilty' by the Standards Committee and the details are made public, including any sanctions that have been made.

Okehampton Town Council is committed to equal opportunities. Complaints and feedback will be used to highlight discriminatory practices and to promote equality of opportunity.

Complaints made by members of the public of discrimination and/or harassment against the Town Council will be dealt with through the complaints procedure unless it is a complaint that should be dealt with through a statutory procedure.

All formal complaints will be brought to the attention of the Council.

3. How to make a complaint

Correspondence relating to complaints should be marked CONFIDENTIAL.

In person or in writing: Town Clerk
Okehampton Town Council
Town Hall

Fore Street
Okehampton EX20 1AA

By phone: 01837 53179

By email: townclerk@okehampton.gov.uk

Alternatively, if your complaint relates to the Town Clerk you may address your complaint to the Town Mayor:

In writing: Town Mayor
Okehampton Town Council
Town Hall
Fore Street
Okehampton EX20 1AA

By email: the current Mayor's email address and phone number can be found on the Council website www.okehampton.gov.uk or obtained by contacting the office on 01837 53179

Verbal and anonymous complaints will not be considered.

4. Procedure

4.1 Stage 1

During the course of daily business, minor complaints are made to the Council regarding the service we provide. The Town Clerk will usually deal with these.

It is not appropriate for every comment received to be treated as a formal complaint. A response will be sent within 14 working days, either providing information, instigating the appropriate action or explaining a decision. Should this not be possible, the complainant will be informed as soon as possible with an explanation and expected timescale for its conclusion.

On conclusion of the investigation the complainant will be notified of the decision in writing.

If the complainant is not satisfied with the conclusion an appeal can be made within 20 working days of the date of the letter to the Town Clerk or Mayor. If an appeal is not requested within this timescale, the complaint will be considered closed.

4.2 Stage 2

If the complainant responds and requests an appeal, an acknowledgement will be sent within 14 working days of receipt.

The appeal will be referred to the Policy & Resources Committee for further investigation which will include the consideration of:

- The information previously provided by the complainant
- Any further information provided by the complainant along with an explanation of why it is felt that the decision made at Stage 1 is not satisfactory

- Any other information obtained during Stage 1

The complainant will be notified in writing of the final decision within 20 working days of receipt of the appeal request or, if an extension of time is required to conclude the investigation, the complainant will be advised accordingly.
The Council will be informed of the complaint and resulting decision.

5. Persistent or Vexatious Complaints

This policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual or vexatious. The following clauses form the Council policy for ways of responding to these situations.

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'. 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.

The term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.

Habitual or vexatious complaints can be a problem for council staff and councillors. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of officer and councillor time. While the council endeavours to respond with patience and sympathy to the needs of all complainants 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 them to be labelled vexatious or unreasonably persistent.

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

5.1 Habitual or Vexatious Complainants

For the purpose of this policy the following definitions of habitual or vexatious complainants will be used:

The repeated and/or obsessive pursuit of:

- i. unreasonable complaints and/or unrealistic outcomes, and/or
- ii. reasonable complaints in an unreasonable manner.

Prior to considering its implementation the Council will send a copy of this policy to the complainant to give them prior notification of its possible implementation.

Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out at 5.2 the Clerk and Policy & Resources Committee will seek agreement to treat the complainant as a habitual or vexatious complainant for the appropriate course of action to be taken, the options available for dealing with habitual or vexatious complaints are contained within the policy.

The Clerk on behalf of the Council will notify complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken.

The status of the complainant will be kept under review. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed.

5.2 Definitions

Okehampton Town Council defines unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their or other people's complaints.

The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.

Examples include the way in which, or frequency with which, complainants raise their complaints with staff or how complainants respond when informed of the Council's decision about the complaint.

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):

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 they do 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
- insist 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 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 questions, frequent and/or complex letters, faxes telephone calls or e-mails)
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint 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 Standards Board, 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 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 or other persons about the same issue
- persist in seeking an outcome which Council has explained is unrealistic for legal, policy (or other valid) reasons
- refuse to accept documented evidence as factual
- complain about or challenge an issue based on an historic and/or irreversible decision or incident
- combine some or all of these features.

5.3 Imposing Restrictions

The Council will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.

In the first instance the Clerk will consult with the Mayor and Chairman of the Policy & Resources Committee prior to issuing a warning to the complainant. The Clerk will contact the complainant in writing, or by e-mail, to explain why this behaviour is causing concern and ask them to change this behaviour and outline the actions that the Council may take if they do not comply.

If the disruptive behaviour continues, the Clerk will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the Council in future will be restricted. The Clerk will make this decision in consultation with the Mayor and the Chairman of the Policy & Resources Committee and inform the complainant in writing of what procedures have been put in place and for what period.

Any restriction that is imposed on the complainant's contact with the Council will be appropriate and proportionate and the complainant will be advised of the period of time over which that the restriction will be in place. In most cases restrictions will apply for between three to six months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis, or at the next Full Council Meeting.

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

- banning the complainant from making contact by telephone except through a third party e.g. a solicitor, a Councillor or a friend acting on their behalf
- banning the complainant from sending emails to individuals and/or all Council Officers and insisting they only correspond by postal letter
- requiring contact to take place with one named member of staff 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
- 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 will be identified who will read future correspondence).

When the decision has been taken to apply this policy to a complainant, the Clerk will contact the complainant in writing to explain:

- why the decision has been taken
- what action has been taken
- the duration of that action.

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

Where a complainant continues to behave in a way that is unacceptable, the Clerk, in consultation with the Mayor and the Chairman of the Policy & Resources Committee may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, other options will be considered, e.g. the reporting of the matter to the police or taking legal action. In such cases, the complainant may not be given prior warning of that action.

5.4 New complaints from complainants who are treated as abusive, vexatious or Persistent

New complaints from people who have come under this policy will be treated on their merits. The Clerk and the Mayor in conjunction with the Chairman of the Policy & Resource Committee will decide whether any restrictions that have been applied before are still appropriate and necessary in relation to the new complaint. A blanket policy is not supported, nor ignoring genuine service requests or complaints where they are founded.

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

6. Review

The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Clerk, Mayor and the Chairman of the Policy & Resources Committee, after three months, and at the end of every subsequent three months within the period during which the policy is to apply, or by the next Full Council Meeting.

The complainant will be informed of the result of this review if the decision to apply this policy has been changed or extended.

7. Record Keeping

The Clerk will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:

- the name and address of each member of the public who is treated as abusive, vexatious or persistent, or any other person who so aids the complainant
- when the restrictions came into force and ends
- what the restrictions are
- when the person and Council were advised.

Full Council be provided with a regular report giving information about members of the public who have been treated as vexatious/persistent as per this policy.

8. Review

This policy will be reviewed at least every four years.

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