



Tadcaster Town Council

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Monday to Thursday 9.30am to 12.30pm

Persistent or Vexatious Policy

Introduction

This policy has been produced to create a joint understanding of what is considered acceptable and unacceptable behaviour when working with Officers and Councillors of Tadcaster Town Council. It includes dealing with abusive, persistent or unreasonable behaviour and vexatious complaints from members of the public. It also includes the identifying of potentially violent individuals on the Town Council's electronic management systems. The Town Council is keen to positively and proactively work with residents to resolve issues as and when they occur.

This policy has four main sections:

Section 1: Unreasonable behaviour when contacting TTC

Section 2: Vexatious/persistent complainants

Section 3: Options to restrict and manage contact

Section 4: Record keeping and monitoring of those who are subject to the Vexatious Complaints policy

The purpose of the Policy

- To define the behaviours that are not acceptable to the Town Council, including behaviour exhibited by people making formal complaints.
- To ensure that the ability of staff and councillors to conduct business is not adversely affected by individuals who behave in an unreasonable or vexatious manner.
- To ensure employees and councillors have a safe working environment and are not exposed to unnecessary stress, harassment, or violence due to the unacceptable behaviour of other and that they are supported as appropriate.
- To ensure that employees and councillors can deal confidently and effectively with unreasonable behaviour should it occur.

Who does this Policy apply to?

This policy applies to everyone who has contact with the Town Council.

Section 1: Unreasonable Behaviour when contacting Tadcaster Town Council

The Town Council has a duty of care to its employees and councillors to protect them from avoidable stress and upset at work and to use policies and procedures to protect them from what we consider to be unacceptable levels of types of contact. We recognise that when you contact the Town Council you may have reason to feel aggrieved, upset or distressed. However, it is not considered acceptable when these feelings become aggressive and are directed towards individual employees or councillors.

1.1 What behaviour is unreasonable?

a. Unreasonable behaviour is behaviour of language, in whatever form whether face to face by telephone, social media, SMS (text message) or written that may cause employees or councillors to feel intimidated, threatened or abused. Examples may include, but are not limited to:

- Threats of violence
- Verbal abuse
- Discriminatory language
- Derogatory remarks
- Offensive language
- Rudeness
- Making inflammatory statements
- Raising unsubstantiated allegations
- Any form of physical abuse

b. We do not view assertive behaviour as unreasonable, for example, putting forward your case in a persuasive manner, so long as this does not overstep the line into one of the bulleted behaviours stated above.

1.2. Unreasonable requests and communication

a. Requests may be considered unreasonable either by the nature and/or scale of service expected. Examples may include:

- Requesting a response within unreasonable timescales. (TTC will endeavour to acknowledge receipt within 48 hours wherever possible, but investigation of the details may take considerably longer, depending on the nature of the request).
- Insisting on speaking with certain employees/officers/councillors; all matters should be directed via the Clerk in the first instance, who will route your request to an appropriate/available person
- Adopting a “capture-all” or “scatter gun” approach by contacting many employees, councillors and third parties about the same issue (please refer to the above note and contact the Clerk as the first step)

b. Communication may be considered unreasonable if, for example, individuals or representatives of organisations:

- 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.

1.3. Unreasonable communication through social media

a. Social media is a rapidly changing area of technology that many Councils are using to build relationships with new and existing customers/residents. However, this form of communication can

sometimes be used to bully and harass employees and councillors. All social media users should adopt the same level of courtesy used when communicating via email, telephone or face to face.

b. If a member of the public posts a message that may cause offence – or is otherwise unsuitable about an employee or councillor the council will do its best to have that post removed from the social media site.

c. When social media is used inappropriately (e.g. cyber bullying), we will try to identify the offender take steps to remove the offending material from view and, where appropriate, initiate action against the offender.

d. Inappropriate content includes:

- Pornography
- Racial or religious slurs
- Gender-specific comments
- Information encouraging criminal or terrorism activity
- Threats, abuse or personal comments which may be regarded as defamatory
- This definition of inappropriate content or material also covers any text, images of other media that could reasonably offend someone on the grounds of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation or any other characteristic protected by law (see also the Council Equal Opportunities Policy).

1.4. How we will manage unreasonable behaviour

a. All Council employees and councillors have the authority to manage unreasonable behaviour. The Council has a zero-tolerance position on physical violence, verbal abuse, threats or harassment against our employees and councillors. Any personal assault against its employees or councillors will be reported to the police, who may decide to prosecute.

b. The decision to invoke this policy and place restrictions on an individual will be taken by the Chairman or in his absence, the Vice Chairman. If the complaint relates to an issue of Councillor Conduct, it will be referred to the North Yorkshire Council Monitoring Officer.

c. For individuals, whose behaviour has been found to be unreasonable, TTC has developed a list of possible ways in which their contact with us can be managed or restricted. The options found in Section 3 may be applied as appropriate.

d. In all cases, the council will only place restrictions on an individual if we have informed them their behaviour is unreasonable and have asked them to modify it. We will explain what action will be taken if the warning is ignored. If they fail to modify their behaviour, we will take steps to restrict their communications/contact with us.

e. If we decide a restriction is appropriate, we will consider which of the options best fit the circumstances. The level of restriction that we apply will be proportionate, taking into account the nature, extent and impact of the unreasonable behaviour.

f. We will be transparent and will write to the individual to explain what restriction we are putting in place, our reasons for doing so, and how long the restriction will apply

g. The restrictions will be in place for a minimum period of 3-months and the review period can be on a 3, 6 or 12 monthly basis. The individual will be informed of the review date in the original explanatory letter.

Section 2: Vexatious or Persistent Complaints

2.1 Clarification

a. An individual can only be described as “vexatious or persistent” if they demonstrate unreasonable behaviour while making (or having made) a formal complaint through our Complaints Procedure.

b. Dealing with a complaint is usually a straightforward process but, in a minority of cases, people pursue their complaints in a way in 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.

2.2 How we deal with complaints

a. We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner.

b. As stated above, complaints regarding the conduct of elected members are dealt with by the Monitoring Officer at North Yorkshire Council, regardless of whether they are a Town Councillor and/or a County Councillor.

2.3 What do we mean by unreasonable behaviour?

a. Unacceptable behaviour is defined above (section 1.1) and can be applied to complaints going through the formal complaints process.

b. We will not normally limit the contact which complaints have with council employees or councillors; however, we do not expect employees or councillors to tolerate unacceptable behaviour by complainants.

c. We will act to protect employees from unreasonable behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy, which may include invoking one or more of the options detailed in section 3.

d. Raising legitimate queries or criticisms of a complaints procedure as it progresses (for example if agreed timescale are not met) should not in itself lead to someone being regarded as a vexatious or unreasonably persistent complaint.

e. 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.

2.4 Definitions

a. We have adopted the Local Government Ombudsman’s (LGO) definition of “unreasonable complainant behaviour” and “unreasonable persistent complaints”.

b. 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.

c. Examples include the way or frequency that complainants raise their complaint with employees, or how complainants respond when informed of our decision about the complaint.

d. 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 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 (e.g. planning decisions).
- Refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about something the council is not empowered to do or something that is the responsibility of another organisation).
- Make what appear to be groundless complaints about the employee or councillors dealing with the complaints and seek to have them 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 employees, councillors 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 employees or councillors dealing with their complaint, by use of foul, inappropriate, offensive 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 “scatter gun” approach, for instance, pursuing a complaint not only with the council, but at the same time with the County Council, a Member of Parliament, other councils, elected councillors of this and other councils, 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 impossible or unrealistic for legal or policy (or other valid) reason.
- Refuse to accept documented evidence as factual.
- Refuse an offer of third-party arbitration over an issue.
- 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 in which are incompatible with the Complaints Procedure or with good practice.

2.5 How we will manage vexatious or persistent complainants

a. The Clerk will bring to the attention of the Chairman (or vice-chairman) if a complainant is becoming persistent or vexatious. If appropriate, the matter will be referred to the Council’s Resources Committee for review. When a decision has been taken to apply this policy, a warning letter will be sent to the complainant that unless the behaviour changes the policy will be invoked.

b. If the behaviour persists, the Staffing Sub-Committee may take the decision to make the individual a vexatious complainant. The Chairman (or vice-chairman) will contact the complainant in writing to explain:

- Why we have taken the decision.
- What action we are taking (see the list of options in section 3).
- The duration of the action.
- The review process of this policy.
- The right of the complainant to contact North Yorkshire Council about the fact that they have been treated as a vexatious/persistent complainant.

c. The Chairman (or vice-chairman) will enclose a copy of this policy in the letter to the complainant

d. Where a complainant continues to behave in a way in which is unacceptable, the Chairman (or vice-chairman), following consultation with the Staffing Sub-Committee, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

e. Where the behaviour is so extreme or it threatens the immediate safety and welfare of our employees or councillors, 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 such action.

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

- a. New complaints from people who have come under this policy will be treated on their merits. The Chairman (or vice-chairman), in consultation with the Staffing Sub-Committee, will decide 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 complaints where they are founded.
- b. 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

2.7 Review

- a. The status of a complainant judged to be unreasonable persistent or vexatious will be reviewed by the Staffing Sub-Committee after three months and at the end of every subsequent three months within the period during which the policy is to apply.
- b. 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.

Section 3: Options to Restrict and Manage Contact

If individuals continue to behave unreasonably after we have asked them to modify their behaviour, the options we will consider are:

Option 1 – Requiring you to contact a named employee(s) only (single point of contact or “SPOC”)

Option 2 – Restricting contact (whether via telephone, face to face or digital) to specified places, days and times, as agreed with you.

Option 3 – Terminating contact if you persistently raise issues to which we have already responded in full, no matter how these contacts are made (e.g. phone, digital, letter). If we believe a pseudonym is being used, we will seek to confirm the identity.

Option 4 – Terminating contact if you are aggressive, rude, abusive or offensive. As in Option 3, if we believe a pseudonym is being used, we will seek to confirm the identity.

Option 5 – If you have threatened our employees or councillors with physical violence be it verbal, face to face, in writing or in any other form, we may place a warning marker on any electronic records management system where we hold your records. In addition, the Police will be informed.

Option 6 – Restricting the issues we will correspond on.

Option 7 – If you send us a large volume of irrelevant documentation, we may return these documents to you and will advise you that further irrelevant documents will be destroyed.

Option 8 – 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 falls to raise new issues.

Option 9 – we will not respond to correspondence (e.g. letter or email) which is abusive or offensive, other than to advise the Vexatious Complaints Policy is being invoked. If the material in question is considered to break the law, it will be passed onto the Police accordingly.

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.

Option 11 – If you post derogatory, defamatory, offensive or threatening remarks on social media we reserve the right to ask the site to remove them and try to block your account. We may also reserve the right to refer the matter to the Police.

Section 4: Record keeping and Monitoring of those Subject to the Vexatious Complaints Policy

In accordance with our Data Protection and Retention Policies, adequate records will be retained by the Clerk concerning the details of the case and the action that has been taken where this policy has been invoked. Standard information recorded for all complainants will include:

- The name and address of each person who is treated as abusive, vexatious or persistent and is being managed under this policy
- The name and address of anyone that has been identified as potentially violent towards our staff or councillors will be assigned a warning marker on our records management system
- When the restriction came into force and ends
- What the restrictions are
- When the complainant was advised.