

	<b>Abusive, Persistent or Vexatious Complaints Policy</b>
<b>Ref</b>	

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## SUMMARY

This policy sets the options the Council will consider to manage abusive, persistent and/or vexatious complainants which either cause offence and/or impact negatively on the capacity of officers or Members to do their roles effectively because of the volume of contacts received.

## CONTEXT

This should be read alongside the Council’s Complaints policy and its policies on access to information. It should also be considered alongside the standards process set out in the Council’s constitution where concerns relate to activity undertaken by an elected member.

## PURPOSE

The purpose of this policy is to protect staff from harassment and / or unreasonable levels of contact that impede their ability to do their roles effectively, while also safeguarding the rights of individuals to access services.

## SCOPE

This policy applies to all staff, residents who may contact them. It also applies to Councillors in their activity in relation to staff and also the protections that can be put in place for Councillors who are experiencing abusive, persistent and /or vexatious levels of contact from residents.

## DEFINITIONS

<p><b>Unreasonably persistent complainants</b></p>	<p><a href="#">Local Government Ombudsman</a></p> <p><i>“For us, unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation’s consideration of their, or other people’s, complaints”.</i></p>
<p><b>Abusive or harassing behaviour</b></p>	<p>This list is not exhaustive but indicative examples of behaviour that could be assessed as meeting this category of behaviour could include:</p> <ul style="list-style-type: none"> <li>• Attempted or actual coercion or intimidation, through violence or threats.</li> <li>• Attempted or actual contact, or harassment of employees outside of work.</li> <li>• Making unfounded accusations against members or employees.</li> <li>• Physical assault, or threats of physical violence.</li> <li>• Verbal or written abuse (i.e. use of obscene, aggressive or discriminatory language)</li> <li>• Refusal to leave our premises after being asked to do so.</li> <li>• Targeting or bullying of members or employees on the internet or social media.</li> </ul>
<p><b>Persistent behaviour</b></p>	<p>This list is not exhaustive but indicative examples of behaviour that could be assessed as meeting this category of behaviour could include:</p> <ul style="list-style-type: none"> <li>• Creating an oppressive burden by making excessive demands on time and resources</li> </ul>

	<ul style="list-style-type: none"> <li>• Persistently contacting officers about the same issue which has already been responded to.</li> <li>• Requesting information that we have already provided or you know is already published.</li> <li>• Submitting repeated complaints essentially about the same issue.</li> <li>• Contacting us repeatedly in relation to any issue or complaint.</li> <li>• Approaching us through multiple routes about the same issue.</li> <li>• Pursuing the same issue or complaint with multiple bodies at the same time.</li> </ul>
<b>Vexatious behaviour</b>	<p>This list is not exhaustive but indicative examples of behaviour that could be assessed as meeting this category of behaviour could include:</p> <ul style="list-style-type: none"> <li>• Attempting to use Council procedures to pursue a political or personal vendetta.</li> <li>• Making groundless complaints about employees handling your issue or complaint.</li> <li>• Demanding without grounds the dismissal or prosecution of members or employees.</li> <li>• Refusal to adhere to council processes</li> <li>• Deliberately attempting to annoy or disrupt by contacting us for no legitimate reason.</li> <li>• Refusing to identify the specific grounds for your complaint or request.</li> <li>• Refusing to cooperate with us after requesting a service or making a complaint.</li> <li>• Making statements that you know are not true, or persuading others to do the same.</li> <li>• Raising large numbers of irrelevant or trivial questions, and insisting they are answered in such a way that significantly impedes officer capacity.</li> </ul>
<b>Unreasonable behaviour</b>	<p>This list is not exhaustive but indicative examples of behaviour that could be assessed as meeting this category of behaviour could include:</p> <ul style="list-style-type: none"> <li>• Refusing to accept clearly documented evidence as fact.</li> <li>• Requesting an outcome that we cannot provide.</li> <li>• Requesting actions that are illegal or would infringe the rights of others.</li> <li>• Refusing to accept that an issue may not be in our power to investigate or change.</li> <li>• Refusing to accept the final outcome of our procedures once these are exhausted.</li> <li>• Denying you have received an appropriate response when our records show otherwise.</li> </ul>

**ROLES AND RESPONSIBILITIES**

<b>The Mayor and Executive and Elected Members</b>	Overall responsibility for effective management, including agreeing and adherence to the Council’s abusive, persistent or vexatious complaints policy.
<b>Chief Executive and Leadership Team</b>	Lead, coordinate and champion effective management of abusive, persistent or vexatious complaints policy ensuring that the Council fully complies with all legal and corporate governance requirements.

<b>Senior Information Risk Owner (SIRO)</b>	Responsible for the overall management of information risk within the Council, advising the Chief Executive, management team and Information Asset Owners, and ensuring that staff training is available and fit-for-purpose.
<b>Governance and Information Manager</b>	Manages the operational group of key officers within Complaints, Subject Access Requests (SAR) and Freedom of Information (FOI) Requests. Led by the SIRO responsible for reporting and identifying abusive, persistent or vexatious persons within information strategy, in conjunction with the Information Asset Owners (Heads of Service).
<b>Strategic Risk and Health and Safety Manager</b>	Review and manage the EPR Policy and the abusive, persistent or vexatious complaints policy and procedure to ensure that they are fit for purpose.
<b>Legal Services</b>	Provides guidance and coordinates the Council's approach to management of abusive, persistent, or vexatious complaints.
<b>Heads of Service</b>	Support the governance and information team in providing relevant information to the FOI team to ensure that requests are actioned in a timely manner.
<b>All employees</b>	Understand the level of personal performance that is expected and deliver on this. Ensure data is entered accurately and in a timely manner.

## PROCESS

### Managing unreasonable complainant behaviour

This policy may be invoked if the Council considers that a complainant / correspondent has behaved in a manner which is deemed unreasonable, using the definition guidance set out in this policy.

Actions taken against a complainant / correspondent will be assessed on a case-by-case basis, using the underlying principles of proportionality, time limited and minimal restrictions on the rights of individuals necessary to protect staff.

Actions the Council may take using this policy may include the following, however this list is not exhaustive:

- Where the complainant tries to reopen an issue that has already been considered through one of the Council's complaints procedures, they will be informed in writing that the procedure has been exhausted and that the matter is now closed.
- Where a decision on the complaint has been made, the complainant should be informed that future correspondence will be read and placed on file, but not acknowledged, unless it contains important new information.
- Limiting the complainant to one type of contact (for example telephone, letter, email, etc.).
- Placing limits on the number and duration of contacts with staff per week or month.
- Requiring contact to take place with a named member of staff and informing the complainant that if they do not keep to these arrangements, any further correspondence that does not highlight any significantly new matters will not necessarily be acknowledged and responded to but will be kept on file.
- Assigning one officer to read the complainant's correspondence, in order to ensure appropriate action is taken.
- Offering a restricted time slot for necessary calls to specified dates and times.
- Requiring any face-to-face contacts to take place in the presence of a witness and in a suitable location.
- Restricted access to Council premises, due to unreasonable behaviours towards council staff
- Use of email redirect functionality to redirect contacts from officer(s) to a designated account.
- Further actions such as injunctions against individuals for repeated behaviours outlined above.

### **Matters to take into account before taking action.**

Planned review timescales must be included in any communications about restrictions to residents, unless communication could increase risks of harm to staff or Councillors.

Staff must be satisfied before taking any action using policy that the complainant's individual circumstances have been taken into account including such issues as age, disability, gender, race and religion or belief.

Where action has been taken against an individual in accordance with this policy, the action will remain in place for a period of three months, this will be known as the "restrictive period".

### **Imposing restrictions - process**

Where there is a proposal to implement restrictions, the Complaints Team in consultation with the relevant Head of Service will communicate to the complainant either by phone or in writing (see Appendix A) to explain why this behaviour is causing concern and ask them to change this behaviour. The Complaints Team will explain what actions the Council may take if the behaviour does not change.

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

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

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 the restriction will be in place for. In most cases restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

If the complainant continues to behave in a way which is deemed unacceptable then the Complaints Team, in consultation with the Monitoring Officer, may decide to refuse all contact with the complainant and cease any investigation into his or her complaint.

If the complainant continues with the unreasonable behaviour, where it becomes so extreme or it threatens the immediate safety and welfare of staff or the complainant, the Council consider all appropriate options, this could include reporting the matter to the Police, other services or taking legal action. In such cases, we may not give the complainant prior warning of this.

### **New complaints from those who have been treated as being abusive, vexatious and/or unreasonably persistent complainants.**

Where restrictions have been put in place on points of contact, complainants who raise further complaints must only do so through approved contact routes. This policy does not restrict the rights of individuals to raise new, legitimate issues.

### **MONITORING AND REVIEW OF THIS POLICY**

Use of this policy will be monitored by the Complaints team and its content will be reviewed every three years or sooner if there are lessons learned from its application which result in it requiring amendment.

## Supporting policies, procedures, and standards

- Local Government Ombudsman - [Guidance on managing unreasonable complainant behaviour - Local Government and Social Care Ombudsman](#)
- Customer Complaints Policy - [Privacy notice - Customer Complaints, Comments and Feedback | Middlesbrough Council](#)
- Complaints Guidance - [Handling complaints guidance \(middlesbrough.gov.uk\)](#)
- Children's Services Complaints Procedure - <https://www.middlesbrough.gov.uk/council-and-democracy/about-the-council/feedback-and-complaints-about-our-services/childrens-services-comments-and-complaints/>
- Adult's Services Complaints Procedure - <https://www.middlesbrough.gov.uk/media/bowndyjw/adult-social-care-complaints-procedure.pdf>
- Templates to support implementation of this policy are appended, to be amended to reflect the individual circumstances of each individual case.
  - Appendix A – Template Letter notification.
  - Appendix B – Template Letter of placed on
  - Appendix C – Template Letter Removal

**Abusive, Persistent or Vexatious Complaints Letter**

<Suggested draft letter to complainant when papers are being referred to the Head of Service.>

Dear \_\_\_\_\_

Following the responses to your complaints as listed below, I am referring your complaints to the relevant **head of service** to investigate if these fall into the category of unreasonable, persistent or vexatious as detailed in the Council’s complaints policy.

You will be notified of the outcome of the investigation within 10 working days of the date of this letter. If this is not possible you will be advised of the time needed to conclude the investigation up to a maximum of 12 weeks.

Full details of our [complaints policy](http://www.middlesbrough.gov.uk) can be found on our website [www.middlesbrough.gov.uk](http://www.middlesbrough.gov.uk)

Yours sincerely

**Complaints Team:** \_\_\_\_\_

Summary of complaints received from \_\_\_\_\_

Date received	Complaint - Brief details	Response - Brief details

Reason referred to Head of Service as detailed in the complaints policy:

\_\_\_\_\_  
\_\_\_\_\_

**Signature of HoS:**

Date: \_\_\_\_\_

**Abusive, Persistent or Vexatious Complaints Conduct Warning Letter**

<Suggested draft letter to complainant when papers are being referred to the Head of Service.>

Dear \_\_\_\_\_

Following on from the initial letter sent it has been confirmed by **head of service** that your behaviour has fallen into the bracket of unreasonable, persistent or vexatious as detailed in the Council’s complaints policy, in respect to the following:

Date received	Complaint - Brief details	Response - Brief details

The Council and its officers have tried their best to assist you with the various information requests you have submitted as outlined above. in relation to ..... and to provide you with advice and guidance on the results and your future options as well as speaking to you numerous times.

While I understand that you will be disappointed that the Council has been unable to provide you with the information you are seeking, I would ask that you conduct any future correspondence in a respectful and courteous manner. The Council has a duty to protect its officers from unacceptable behaviour and those officers have a right to refuse to deal with you if subject to such behaviour.

In response to your recent and previous conduct (which you were warned about in .....), I am now putting in place the following measures: (Delete as applicable)

- *Direct emails to the accounts of .....and their staff will be automatically rejected.*
- *Calls to these officers will also not be accepted*
- *You may continue to submit FOIs or SARs using the Council’s [FOI@middlesbrough.gov.uk](mailto:FOI@middlesbrough.gov.uk).*
- *You may continue to submit questions for Council using the [councilquestions@middlesbrough.gov.uk](mailto:councilquestions@middlesbrough.gov.uk) email address.*
- *If you decide to formally submit a legal claim ..... you may do so still by submitting one through .....*
- *If you have an issue that requires a response from ..... their finance staff in relation to a matter other than ..... your potential legal claim, you may use the FOI email address provided above and it will be passed on if it does not contain abusive or insulting language.*
- *Access to other council services is currently unrestricted, although I would caution you from repeatedly contacting legal and Freedom of Information staff to discuss your potential claim and closed FOI requests as the Council would have to consider whether the volume of contact could be considered to be vexatious if it were to continue.*

I hope that these measures will be able to be removed following a three-month period of monitoring and I will review whether they still need to be in place. If you continue to act in an unreasonable, persistent or vexatious it will be forced to restrict your access to Council staff further through the use of a more restrictive communications plan.

Should you be unhappy with the Communication Plan and consider that you have suffered an injustice as a result of fault by the Council, you may wish to contact the Local Government and Social Care Ombudsman

([www.lgo.org.uk](http://www.lgo.org.uk)). Further information can be found online at [www.lgo.org.uk/make-a-complaint](http://www.lgo.org.uk/make-a-complaint); or the LGSCO can be contacted by telephone on 0300 061 0614 for help in making a complaint.

Your rights of seeking an internal review of FOI or SAR requests and progressing to a complaint to the Information Commission's Office (ICO) also remain unaffected by this plan.

Yours sincerely

**Abusive, Persistent or Vexatious Complaints Conduct Removal Letter**

Dear \_\_\_\_\_

I'm writing to inform you that your behaviour has been at the expected standard and therefore is no longer deemed to be unreasonable, to that end I'm writing to advise you that the restrictions have now been lifted.

Yours sincerely

**Complaints Team:** \_\_\_\_\_

Summary of complaints received from \_\_\_\_\_