

Wimborne Minster Town Council

Complaints and Vexatious Behaviour Policy

Author: L Harrison, Town Clerk, Wimborne Minster Town Council, 3 May 2023.

Approved and adopted by the Finance and Governance Committee on 18 July, minute reference FG/2023/026.

1. Introduction

- 1.1 Wimborne Minster Town Council (the Council) recognises that it is not subject to the jurisdiction of the Local Government Ombudsman but has adopted this Policy to ensure that complainants are properly and fully considered. The Council believes that complaints can provide useful information and feedback on the quality of our services, procedures and practices. The effective handling of complaints will help us to improve the services provided on behalf of residents, visitors and those working within the Town.
- 1.2 The Council does not consider formal complaints against councillors, as prescribed by law. These are dealt with in accordance with the Town Council's adopted Code of Conduct by Dorset Council's Monitoring Officer (see point 4.4 below). A full copy of the Council's Code of Conduct is available from the Council's offices and on the Council's website.
- 1.3 All other complaints should be addressed to the Town Clerk and will be dealt with promptly to maintain public confidence.
- 1.4 Should the complaint be in regard to the Town Clerk, it should be addressed to the Town Mayor.
- 1.5 A fair and courteous response will be given in all cases, and a full and proper investigation may be undertaken to establish all the pertinent facts.

2. Aim

- 2.1 The aim of this policy is to swiftly investigate all complaints in an impartial manner and to find a solution locally, whenever possible, to the satisfaction of both the complainant and the Council.

3. Definition

- 3.1. People's perceptions differ widely. It is therefore very difficult to give a precise definition of a complaint. However, for our purposes, a complaint is an expression of dissatisfaction about a service undertaken by the Council or any of its employees or contractors.
- 3.2. More specifically, a complaint is where:
 - The Council has not done something it has a duty to do or normally does
 - The Council has done something it has no right to do or does not normally do as a matter of established practice
 - The conduct or behaviour of an employee or contractor is unsatisfactory

- The established levels of service delivery are not reached.
- A person does not understand or is not informed of why or how a situation arose or exists
- An adopted and known procedure is not followed
- Maladministration is alleged.

3.3. This complaints procedure will not apply to complaints made anonymously.

3.4 Vexatious behaviour

3.4.1 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.

3.4.2 We do not expect staff to tolerate unacceptable behaviour by complainants, or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening and may include:

- using abusive or foul language on the telephone, face to face or via online social media,
- any form of intimidating or threatening behaviour,
- sending multiple emails, and
- leaving multiple voicemails.

3.4.3 Council have adopted the Local Government Ombudsman's (LGO) definition of vexatious complaints as those which, because of the frequency or nature of the complainant's contacts with the council, hinder our consideration of their or other peoples' complaints. The description "unreasonably persistent" and "vexatious" may apply separately or jointly to a particular complaint. Examples include:

- there are insufficient or no grounds for the complaint and it is made only to annoy (or for reasons that the complainant does not admit or make obvious),
- there are no specified grounds for the complaint despite offers of assistance,
- the complainant refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved,
- the complaint is about issues 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) and where the complainant refuses to accept this,
- the complainant insists on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint or insisting the complaint is only dealt with by the Town Mayor or Clerk),
- there appears to be groundless complaints about the staff dealing with the complaints, and an attempt to have them dismissed or replaced,
- there is an unreasonable number of contacts with us, by any means, in relation to a specific complaint or complaints,
- there are 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),
- attempts to harass, verbally abuse or otherwise seek to intimidate staff dealing with their complaint by use of foul or inappropriate language or by the use of offensive or discriminatory language,
 - subsidiary or new issues are raised whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process,
 - trivial or irrelevant new information is introduced whilst the complaint is being investigated and an expectation that this to be taken into account and commented on,
 - there is a change to the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed,
 - the complainant denies statements he or she made at an earlier stage in the complaint process,
 - the complainant electronically records meetings and conversations without the prior knowledge and consent of the other person involved,
 - the complaint is the subject of an excessively “scattergun” approach; for instance, the complaint is not only submitted to the council, but at the same time to a Member of Parliament, other councils, elected councillors of this and other councils, the council’s independent auditor, the Monitoring Officer or Standards Committee, the police, solicitors, and/or the Local Government Ombudsman,
 - the complainant refuses 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,
 - the same complaint is made repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and where the complainant insists that the minor differences make these 'new' complaints which should be put through the full complaints procedure,
 - the complaint is submitted and persistently pursued through different council departments at the same time,
 - the complaint remains “active” through the complainant persisting in seeking an outcome which we have explained is unrealistic for legal, policy or other valid reasons,
 - documented evidence is not accepted as factual by the complainant
 - the complaint relates to an issue based on a historic and irreversible decision or incident,
 - the complaint combines some or all of these features.

4. Complaints process

4.1 If you have a complaint the first priority is to raise the issue with the Council. To do this, please contact the Council by telephone, email, in person or in writing, giving names and addresses and relevant dates with as much information as possible. Please clearly state that you wish to make a complaint. The appropriate details for contacting the Council are:

- telephone on 01202 881655
- email office@wimborne.gov.uk
- in person or by letter to Wimborne Minster Town Council, 37 West Borough, Wimborne Minster, Dorset, BH21 1LT

If you need any specific help or general guidance about the Council's procedures or about any specific complaint, please contact the Town Clerk at Wimborne Minster Town Council using the contact information referred to above.

4.2 Informal Complaint

- 4.2.1 The Council will seek to resolve all complaints informally prior to a formal complaint being lodged.
- 4.2.2 An informal complaint is made to the Town Clerk who will liaise with the complainant and relevant members/officers to seek resolution.
- 4.2.3 Should it not be possible to resolve a complaint informally the complainant may escalate the complaint to a formal complaint.
- 4.2.4 Should, in the opinion of the Town Clerk or Town Mayor, the complaint be of a serious nature, the complaint shall be escalated to a formal complaint.
- 4.2.5 The Town Clerk shall maintain logs of informal complaints about staff and the council.
- 4.2.6 There is no defined process for an informal complaint; but full records must be kept of any communications and attempts at resolution.

4.3 Formal Complaints

- 4.3.1 Where possible, the Council would wish to solve any complaint informally prior to a formal complaint being lodged
- 4.3.2 All formal complaints shall be acknowledged within 14 days. Complainants shall be provided with routine updates on the progress of investigating ongoing complaints.

4.4 Formal Complaints about Councillors

- 4.4.1 The Town Council does not consider formal complaints about its members.
- 4.4.2 Members are required to comply with an adopted Code of Conduct.
- 4.4.3 A formal complaint about a member should be addressed to the Monitoring Officer of Dorset Council who will arrange the investigation of the complaint. Dorset Council has its own policies for dealing with such complaints. The contact details for the Monitoring Officer are: The Monitoring Officer at Dorset Council via email jonathan.mair@dorsetcouncil.gov.uk

4.4 Formal Complaints about Officers/Employees

- 4.4.1 Formal complaints about an employee of the Council must be made in writing to the Town Clerk setting out the reasons for the complaint and providing any supplementary information that will assist an investigation.
- 4.4.2 Complaints will be referred to the appropriate Line Manager and be processed in accordance with the council's disciplinary policy.
- 4.4.3 Complaints about the Town Clerk must be made in writing to the Town Mayor, setting out the reasons for the complaint and providing any supplementary information that will assist an investigation.
- 4.4.4 The complainant will be informed that the complaint will be progressed under the Council's Disciplinary Policy and at the end of that process will receive a response to the complaint.

4.5 Formal Complaints about the Council, Committees or Decisions

4.5.1 Complaints about the activity or decisions of the Council should be made to the Town Clerk in writing, providing any additional information that will enable the complaint to be investigated.

4.5.2 The complaint shall first be considered by the Town Clerk, Town Mayor and Chairman of the relevant committee who shall seek to resolve the issue or explain the background to the decision. The panel may escalate the complaint to the appropriate committee or Full Council should they consider they are unable to resolve it.

4.5.3 Should the complainant be dissatisfied with the response from the panel, the panel may at its discretion refer the complaint to the appropriate committee or Full Council where the complainant will be invited to address the meeting.

4.5.4 Records shall be kept detailing all complaints, actions undertaken and the outcome.

4.6 Vexatious behaviour

4.6.1 In the first instance the complaint will be referred to the Town Clerk who will contact the complainant either by phone, in writing or by email to explain why this behaviour is causing concern and ask them to change this behaviour. The Town Clerk will explain the actions that the Council may take if the behaviour does not change.

4.6.2 If the disruptive behaviour continues, the Town Clerk will issue a letter or email to the complainant advising them that the way in which they will be allowed to contact the Council in future will be restricted. The Town Clerk will inform the complainant in writing of what procedures have been put in place and for what period, either in this letter or a subsequent letter. The Town Clerk can consult with any other Town Council employee or 3rd party (for example, but not limited to, the Dorset or National Association of Local Councils) if they so wish.

4.6.3 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.

4.6.4 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., solicitor/councillor/friend acting on their behalf),
- banning the complainant from sending emails to individual and/or all council officers and insisting they only correspond by letter,
- banning the complainant from accessing any council building except by appointment,
- requiring contact to take place with one named member of staff only,
- restricting telephone calls to specified days / times / 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 should be identified who will read future correspondence),
- informing the complainant that any further complaints from him or her will only be considered if the Town Clerk agrees that it warrants investigation.

- 4.6.5 When the decision has been taken to apply this policy to a complainant, the Town Clerk will contact the complainant in writing to explain:
- why the council has taken the decision,
 - what action the council is 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 their complaint has been treated as vexatious/persistent.
- 4.6.6 The Town Clerk will enclose a copy of this policy in the letter to the complainant.
- 4.6.7 Where a complainant continues to behave in a way which is unacceptable, the Town Clerk may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- 4.6.8 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the council may not give the complainant prior warning of that action.
- 4.6.9 New complaints from people who have previously come under the definition of vexatious behaviour will be treated on their merits. The Town Clerk will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. The Council does not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.
- 4.6.10 The fact that a complaint is judged to be unreasonably persistent or vexatious, and any restrictions imposed on contact with the complainant will be recorded and notified to those who need to know within the Council.

5. Putting things right

- 5.1. If following the investigation into the complaint the Council is found to be at fault, every effort will be made to resolve the complaint to the satisfaction of the complainant.
- 5.2. Where subsequent actions or simply the passage of time prevents resolution, other actions may be appropriate which may include a local settlement. A local settlement is defined as action taken to restore a complainant to a situation he or she would have been in if the fault had not occurred.
- 5.3. When considering a local settlement, the remedy will need to be appropriate to the injustice and may be reduced where a complainant has contributed to the injustice suffered.
- 5.4 Unlike for District, Unitary or County Councils, there is currently no external agency or government body which can investigate a complaint if you are not satisfied with the initial consideration of your complaint. However, if you are not satisfied with action taken by the Town Clerk, you should write to the Town Mayor via our address or website. The Town Mayor will review the complaint, and all of the paperwork relating thereto, and if he/she believes it appropriate will submit the complaint to a Committee of the Council for consideration. In order to preserve any confidentiality issues, the Committee of the Council will normally deal with your complaint in private session and your details will not therefore be released publicly.

6. Record keeping

6.1 Adequate records will be retained by the Council recording details of the case and the action that has been taken and these will set out:

- the name and address of each customer who has complained and / or is treated as abusive, vexatious or persistent,
- if and when the restriction comes into force and ends,
- what the restrictions are, and
- when the customer and Council were advised.

[end]