

Unreasonable, unreasonably persistent and vexatious complaints

We recognise that the Council may receive complaints from persons with widely varying ways of expressing themselves and who may possibly feel angry, impatient, frustrated or extremely worried, depending on their circumstances. We will therefore only very exceptionally wish to categorise a complaint as unreasonable, unreasonably persistent or vexatious.

This policy identifies situations and ways of responding, where a complainant, either individually or as part of a group, might be considered to be making complaints that are unreasonable, persistent or vexatious. In this policy the terms mean:

- unreasonable - exceeding the bounds of reason, not listening to reason
- persistent - to continue, firmly or obstinately
- vexatious - not having sufficient grounds for action and/or seeking to annoy.

The policy is intended to assist in managing people by categorising them within these terms and agreeing the actions to be taken.

The term complaint in this guidance also covers requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 and reference to our complaints policy or procedures includes requests made under these Acts. Unreasonable, persistent and vexatious complaints can be a problem for staff and Members. The difficulty in handling such complaints is that they are time consuming and repetitive and can take up excessive officer and Member time that could be used on other Council priorities.

Officers and Members will endeavour to respond appropriately according to the individual complainant's needs, and in compliance with our complaints policy, but this guidance is to cover occasions where nothing further can be reasonably done to assist or rectify a real or perceived problem.

Complaints received about District, Town or Parish Councillors should be referred to the Monitoring Officer.

Action to be taken on unreasonable, unreasonably persistent or vexatious complaints

An individual assessment will need to be made in each case to determine if the complaint is to be categorised as unreasonable, persistent or vexatious. To assist with this you need to consider if there has been repeated and/or obsessive pursuit of:

- Unreasonable complaints
- Complaints where there is an expectation of unrealistic outcomes
- Reasonable complaints made in an unreasonable manner
- Repeated complaints that have already been responded to in full

Where a complaint continues and officers have identified the complaint as unreasonable, persistent or vexatious, as set out in Appendix 3, they should refer the case to the Council's Legal Services Manager, using the template at appendix 4. The Legal Services Manager will investigate the issues and provide a response within 10 working days, whenever possible. In complex cases this time may be extended to maximum of 12 weeks. The complainant should be notified that the complaint is being investigated to determine if it is unreasonable, persistent or vexatious.

It is essential that any new contacts are checked and only sent to the Legal Services Manager if they relate to the current complaint under investigation. Any new service requests or complaints should be logged separately and dealt with by the service area.

The Council's Legal Services Manager, following discussions with the relevant service officer, will determine if the complaint should be classified in this way and will inform Management Team of the decision. Appendix 5 lists the options available. By taking the decision to Management Team all services can be made aware of the decision and what actions are to be taken. Any appeal against the decision will be determined by the Chief Executive.

It is important that all staff and especially front line staff are aware of any restrictions to access to our services or officers that are placed on service users/members of the public.

The Council's Legal Services Manager will notify the complainant in writing of the reason why the complaint has been classed as unreasonable, persistent or vexatious and of the actions to be taken. The Legal Services Manager will also inform the ward member.

Once a complaint has been determined as unreasonable, persistent or vexatious, its status will be kept under review and if the complainant demonstrates a more reasonable approach, their status or any restrictions applied to access to our officers will be reviewed.

Appendix 3

Criteria for determining unreasonable, persistent or vexatious complaints

A complaint may be classed as unreasonable, persistent or vexatious if the complainant meets one or more of the following criteria:-

1. Persists in pursuing a complaint where the Council's complaint process has been fully and properly implemented and exhausted and where the complainant has failed to escalate the complaint to the appropriate Ombudsman.
2. Persistently changes the substance of a complaint or continually raises new issues that prolong the contact and make it more difficult to respond effectively. It is important that any completely new issue is raised as a new complaint if appropriate.
3. Is repeatedly unwilling to accept documented evidence or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
4. Repeatedly make complaints but does not identify the precise issues which they wish investigated.
5. Regularly focuses on trivial matters to an extent which is out of proportion to its significance and continues to focus on this point. It is important to recognise that determining what is trivial can be subjective.
6. Have threatened or used physical violence towards employees at any time, this will mean that the complainant can only contact us in writing and staff will be informed what access to staff and buildings they are permitted to.
7. Have in the course of dealing with their complaint made an excessive number of contacts with the Council, placing unreasonable demands on employees. Contacts can be in person, phone, email, fax, letter or web-form. Judgement will be used to determine excessive contact, taking into account the specific circumstances of each individual case.
8. Have harassed or been verbally abusive on more than one occasion towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. The individual circumstances of each person need to be considered and treated sensitively.
9. Makes unreasonable demands on the Council and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practise.
10. Makes unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:

- a. does not have any serious purpose or value
- b. is designed to cause disruption or annoyance
- c. has effect of harassing the public authority
- d. can otherwise fairly be characterised as obsessive or manifestly unreasonable
- e. is using the Council as a means of causing harassment to another member of the public.

11. Makes repetitive complaints and allegations which ignore the replies which Council officers have supplied in previous correspondence.

Appendix 4

Suggested draft letter to complainant when papers are being referred to the Legal Services Manager.

Dear Mr/Mrs.....

Following the responses to your complaints as listed below, I am referring your complaints to the Council’s Legal Services Manager 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 can be found on our website www.middevon.gov.uk.

Yours sincerely
Service Manager’s name
Summary of complaints received from _____

Date received	Complaint – brief details	Response – brief details

Reason referred to Legal Service Manager as detailed in the complaints policy:

Signature of MDCC officer:

Date:

Appendix 5

Options for dealing with unreasonable, persistent and vexatious complainants

The options below can be used singularly or in combination depending on the circumstances of the case.

1. Send a letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
2. Decline contact with the complainant, either in person, by telephone, by fax, by letter, by e-mail or any combination of these, provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this person.
3. Notify the complainant, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint and there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, because they have been classed as an unreasonable, persistent or vexatious and the Council does not intend to engage in further correspondence relating to the complaint.
4. Inform the complainant that in extreme circumstances the Council will seek legal advice and if appropriate commence court proceeding for an injunction.
5. Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered as unreasonable, persistent or vexatious, while seeking advice or guidance from its solicitor or other relevant agency, such as the Local Government Ombudsman.

If any of the above actions are taken, the Council's Legal Services Manager will ensure that all services are advised of the actions to avoid any repetition across services and to ensure the complainant is treated in the same way regardless of how he/she contacts the Council.