



# Abusive, Persistent and Vexatious Complaints

Adopted 20 July 2021

## 1. Abusive, Persistent and Vexatious Complaints

This section 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, and ways of responding to these situations.

- 1.1. 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 CTC through pursuing an unreasonable course of conduct.
- 1.2. The term “complaint” in this policy includes requests made under the Freedom of Information Act 2000 and the General Data Protection Rules 2018 (GDPR) and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.

## 2. Definitions

- 2.1. For the purpose of this policy the following definition of habitual or vexatious complainants will be used:

*The repeated and/or obsessive pursuit of:-*

- (1) *unreasonable complaints and/or unrealistic outcomes; and or*
- (2) *reasonable complaints in an unreasonable manner*

- 2.2. Examples include the way in which, or frequency with which, complainants raise their complaint with staff or how complainants respond when informed of CTC’s decision about the complaint.

2.3. 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):

**Features of 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
- Refuse to accept that issues are not within the power of CTC 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 CTC, 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 emails)
- 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
- 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(s) involved
- Adopts an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with CTC, but at the same time with, for example, a Member of Parliament, other Councils, elected Councillors of this and other Councils, CTC's Independent Auditor, the Standards Board, the Police 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 CTC through different routes about the same issue
- Persist in seeking an outcome which CTC has explained is unrealistic for legal or policy (or other valid) reasons
- Refuse to accept documented evidence as factual
- Complain about or challenge an issue based on an historic and/or an irreversible decision or incident

Combine some or all of these features

- 2.4. Habitual or vexatious complainants can be a problem for CTC staff and members. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of staff and member time. While CTC endeavours to respond with patience and sympathy to the needs of all complainants, there are times when there is nothing further which can be done to reasonably assist or rectify a real or perceived problem.
- 2.5. 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 him or her to be labelled vexatious or unreasonably persistent.
- 2.6. 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.

### 3. Procedures for dealing with Habitual or Vexatious Complainants

- 3.1. Prior to considering its implementation, CTC will send a *summary* of this policy to the complainant to give them prior notification of its possible implementation.
- 3.2. Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Section 2, the Clerk will convene a panel of three members to include the Mayor or Deputy Mayor. The panel will seek agreement to treat the complainant as a habitual or vexatious complainant and for the appropriate course of action to be taken. Section 4 detail s the options available for dealing with habitual or vexatious complaint
- 3.3. Following this panel meeting, the Clerk will contact the complainant in writing, or by email, to explain why their behaviour is causing concern and ask them to change their behaviour and outline the actions that CTC may take if they do not comply.
- 3.4. The Cornwall Councillor for that area will also be informed that a constituent has been designated as an habitual or vexatious complainant.
- 3.5. 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.

## 4. Imposing Restrictions

- 4.1. CTC will ensure that the complaint is being, or has been, investigated properly according to the adopted complaints procedure.
- 4.2. 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 CTC in future will be restricted. This decision will be made following the Clerk consulting with a panel of three members to usually include the Mayor (or Deputy Mayor) of CTC. This letter will inform the complainant in writing of what procedures have been put in place and for what period.
- 4.3. Any restriction that is imposed on the complainant's contact with CTC will be appropriate and proportionate and the complainant will be advised of the period of time that the restriction will be in place for. In most cases restrictions will apply for between 3-6 months, but in exceptional cases this may be extended. In such cases the restrictions would be reviewed on a quarterly basis.
- 4.4. 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 eg a solicitor, a Councillor or a friend acting on their behalf
  - Banning the complainant from sending emails to individual and/or all CTC members and insisting they only correspond by 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
- 4.5. Where a complainant continues to behave in a way that is unacceptable, the Clerk, in consultation with a panel of three Members to include the Mayor (or Deputy Mayor) of CTC may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- 4.6. The Clerk will inform the complainant that CTC 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). The Clerk will also explain:-
  - Why the decision has been taken
  - What action is being taken
  - The duration of that action
- 4.7. The Clerk will enclose a copy of this policy in the letter to the complainant.

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

- 5.1. New complaints from people who have come under this policy will be treated on their merits. The Clerk, in consultation with a panel of three members to include the Mayor (or

Deputy Mayor) of CTC 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.

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

## 6. Review

- 6.1. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by a panel of three members to include the Mayor (or Deputy Mayor) of CTC, after three months, and at the end of every subsequent three months within the period during which the policy is to apply.
- 6.2. 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

- 7.1. 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
  - When the restriction came into force and ends
  - What the restrictions are
  - When the person and CTC were advised
- 7.2. CTC will be provided with an annual report giving information about members of the public who have been treated as vexatious/persistent as per this policy.