

Somerset West and Taunton Council

Executive – 18th September 2019

Complaints Policy

This matter is the responsibility of Executive Councillor Member for Corporate Resources, Cllr Ross Henley

Report Author: Amy Tregellas, Governance Manager

1 Executive Summary / Purpose of the Report

- 1.1 To present the Executive with the Complaints Policy (Appendix A) and Policy for Unreasonable Customer Behaviour and Vexatious Requests (Appendix B) for approval

2 Recommendations

- 2.1 That the Executive approves the Somerset West and Taunton:
 - a) Complaints Policy (Appendix A); and
 - b) Policy for Unreasonable Customer Behaviour and Vexatious Requests (Appendix B)

3 Risk Assessment (if appropriate)

- 3.1 Failure to have an appropriate Complaint Policy could impact on the Council's ability to operate in an economic, efficient and effective manner.

4 Background and Full details of the Report

- 4.1 An effective Complaints Policy helps an organisation deal with complaints quickly, fairly and consistently and is an important part of a good governance framework.
- 4.2 The purpose of this report is to present the Executive with the Complaints Policy (Appendix A) and Policy for Unreasonable Customer Behaviour and Vexatious Requests (Appendix B) for approval

5 Links to Corporate Strategy

- 5.1 Having effective and efficient governance arrangements for dealing with complaints and vexatious complainants is a fundamental element of being a 'well managed' council

6 Finance / Resource Implications

- 6.1 None arising from this report

7 Legal Implications (if any)

7.1 None arising from this report

8 Climate and Sustainability Implications (if any)

8.1 None arising from this report

9 Safeguarding and/or Community Safety Implications (if any)

9.1 None arising from this report

10 Equality and Diversity Implications (if any)

10.1 None arising from this report

11 Social Value Implications (if any)

11.1 None arising from this report

12 Partnership Implications (if any)

12.1 None arising from this report

13 Health and Wellbeing Implications (if any)

13.1 None arising from this report

14 Asset Management Implications (if any)

14.1 None arising from this report

15 Data Protection Implications (if any)

15.1 None arising from this report

16 Consultation Implications (if any)

16.1 None arising from this report

Democratic Path:

- **Scrutiny / Corporate Governance or Audit Committees – No**
- **Cabinet/Executive – Yes**
- **Full Council – No**

Reporting Frequency: Ad-hoc as and when appropriate

List of Appendices (delete if not applicable)

Appendix A	Complaints Policy
Appendix B	Policy for Unreasonable Customer Behaviour and Vexatious Requests

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Somerset West and Taunton Council Complaints Policy

1.0 Introduction

- 1.1 We pride ourselves on delivering high quality, value for money services and are committed to providing what you need, in the way you want and to the standard you expect.
- 1.2 We believe that dealing effectively with complaints is essential to providing good services. The Council needs to address recurring problems, identify and learn from areas of good practice and ensure service delivery is continually improved.
- 1.3 The policy sets out Somerset West and Taunton Council's standard for dealing with complaints, compliments and comments for ensuring feedback is recorded and appropriate action is taken.
- 1.4 The policy details a one stage process that all staff should follow to ensure a consistent approach to dealing with complaints and feedback.

2.0 Purpose

- 2.1 The purpose of this policy is to:
- Define what a complaint is, and who can make a complaint
 - Explain how to make a complaint
 - Explain the process we will follow when dealing with a complaint so that everyone knows that they can expect
 - Set out how we will monitor complaints, use information to improve services and identify training needs

3.0 Our guiding principles

- 3.1 The Council's guiding principles are:
- We will put the customer at the heart of the process, showing empathy and understanding for the issues they raise
 - We will treat all complaints seriously with an honest and open mind and do everything we can to deal with them efficiently and effectively
 - We will say sorry if we have made a mistake, or something has gone wrong, and we will put it right as soon as possible
 - We will aim to resolve complaints at the earliest opportunity
 - Where we can't resolve your complaint immediately we will keep you informed during the process
 - Our responses will be open and honest, based on the evidence available, address all elements of the complaint, and provide clear explanations for decisions made
 - We will ensure our procedure is equally accessible irrespective of age, disability, gender, sexual orientation, race, religion or belief

- We will treat complainants with respect, dignity and fairness and aim to be sensitive to the diverse needs of individuals and will endeavour to meet those needs wherever possible
- We will use complaints information in a positive way to identify training requirements, improve processes, and share learning to prevent similar occurrences in the future

4.0 What is a Complaint?

4.1 We define a complaint as ‘an expression of dissatisfaction with our service (whether justified or not) which requires a response’.

4.2 A complaint could be in relation to any of the following examples:

- we have made a mistake in the way we have provided a service
- there has been a delay in providing a service
- we have failed to deliver a service – this could relate to quality, standard or service level
- our processes or policy have not been followed
- our legal or regulatory requirements have not been met
- we have not delivered to a commitment or promise
- our staff have been rude and unhelpful or not conducted themselves correctly

5.0 What is not a complaint?

5.1 An initial service request will not be classed as a complaint. We encourage all our staff to work with customers and to try to find a resolution to any expressions of dissatisfaction without the need to use the formal complaints process.

5.2 In many cases we can resolve an issue very quickly – by putting the problem right straight away. We consider these types of cases as initial service requests. For example, where a refuse team has not picked up a customer’s bin, but once the team is made aware of this the bin is picked up on the same day.

5.3 However, when a customer is unhappy about the way that a service request was handled, this should be dealt with under the council's complaints procedure.

5.4 Details of who to signpost complaints to if it doesn’t relate to a Council Service can be found in Annex 1.

6.0 Who can make a complaint?

6.1 Anyone who uses or is affected by our services can make a complaint:

- our residents
- people who work in or visit the district
- local businesses
- community groups

- 6.2 A complaint can also be made by:
- a representative acting on behalf of someone who is unable to make the complaint themselves because of physical or mental incapacity
 - a representative where they have been asked to act on behalf of a customer
 - a representative acting on behalf of someone who has died
- 6.3 For complaints made by a representative we have to comply with the following legal requirements:
1. We must have written authority from the customer (or from their executor or administrator of their estate) to deal with the representative acting on their behalf (Data Protection requirements).
 2. We will only deal with a complaint made by a representative of someone because of physical or mental incapacity if we are satisfied that it is being pursued in the best interest of the customer.
 3. We will use the term mental incapacity as defined by the Mental Capacity Act 2005.

7.0 How to make a complaint

- 7.1 Customers can make a complaint by visiting the Council website www.somersetwestandtaunton.gov.uk and completing the online form.
- 7.2 If you are unable to access the form please telephone our customer services team on 0300 304 8000
- 7.3 Details on how complaints will be dealt with can be found in Annex 2 of this policy.

8.0 What about when we get it wrong

- 8.1 When a complaint is found to be justified the council will:
- apologise to the complainant(s)
 - explain what has been/will be done to put the mistake right
 - explain how the error occurred and what has been done to prevent it happening again

9.0 Redress

- 9.1 In some cases an apology is all that is necessary and appropriate by way of a remedy.
- 9.2 We will offer redress where we believe that this will best serve the interests of the customer and customer service. For example, practical action will be considered as part or all of a remedy where a complaint is about failure to take some specific action such as carrying out repairs to a tenant's house.
- 9.3 Consideration will also be given to any practical action suggested by the complainant(s).

- 9.4 There will be circumstances where we are unable to put the customer back into the position they would have been in because of the amount of time lapsed or due to other events which may since have occurred.
- 9.5 In such circumstances, we may consider restorative or financial compensation. When considering any redress we will be fair, consistent and mindful of public money. Decisions about making compensation payments as a result of a formal complaint will be made by the council's Chief Executive.

10.0 Local Government Ombudsman

- 10.1 If a customer is not happy with the way in which we handled their complaint or with our response, they may ask the Local Government Ombudsman to look into their complaint. The ombudsman will not normally look into a complaint if we have not had an opportunity to resolve it through our own complaints process first.
- 10.2 Enquiries from the Local Government Ombudsman will in most cases be co-ordinated by the Governance Manager.
- 10.3 In cases where the ombudsman has recommended redress, we are committed to following the advice and timescales of the ombudsman to the best of our ability.

11.0 Contacting the Local Government Ombudsman

- 11.1 The contact details for the Local Government Ombudsman are:

[Local Government Ombudsman website](#)

Tel: 0300 90610614

12.0 Confidentiality

- 12.1 All complaints will be dealt with in the strictest of confidence
- 12.2 All responses to complaints at all stages will be sent in writing to the customer's email address unless specifically requested otherwise.
- 12.3 We will maintain the confidentiality of all personal customer information, and not disclose it outside of the council without the prior permission of the customer, unless legally obliged to do so.

13.0 Reporting and learning from complaints

- 13.1 We are committed to learning from complaints and using complaints information to drive service improvements.
- 13.2 We will keep records on each complaint received including:
- type of complaint

- complaint outcome
- timescales agreed
- whether timescales were met
- equality information about complainants

13.3 Our complaints page on our website we will give details of any changes that have been made as a result of complaints – You said, we did.

13.4 We will also publish our annual report from the Local Government Ombudsman on our website.

13.5 We will report on complaints and lessons learnt on a quarterly basis to Council's Senior Leadership Team. We will also report annually to the Executive on the numbers and types of complaints received, together with information on the complaint outcomes.

13.6 These reports will not include any personal information.

14.0 Unreasonable customer behaviour and vexatious complaints

14.1 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 or vexatious.

14.2 Unreasonable customer behaviour and vexatious complaints can be a problem for staff and Councillors. The difficulty in handling such complaints is that they are time consuming and repetitive and can take up excessive Officer and Councillor time, that could be used on other Council priorities.

14.3 For further guidance please refer to the Policy for Unreasonable Customer Behaviour and Vexatious Requests.

Annex 1

Complaints about policies

Some complaints are expressions of dissatisfaction with government or local policies, as opposed to our failure to meet service standards.

We will do our best to explain the policy and the reasons for it. However, if the customer remains dissatisfied with the policy they may be directed to their MP or their local councillor for further discussions depending on whether this is national or local policy.

Complaints about staff

We will ensure that staff who are the subject of a complaint in respect of their personal conduct, or those who may have a clear conflict of interest in dealing with such a complaint, will not handle or respond to the complaint.

Complaints about councillors

The council is very keen to make sure elected members uphold good standards of behaviour and conduct. If you believe that a town, parish or district councillor has done something they shouldn't and failed to comply with the code of conduct for councillors, please contact the monitoring officer on monitoringofficer@somersetwestandtaunton.gov.uk

We will discuss your concerns and agree with you the best way forward.

Complaints from councillors or MPs

Where councillors or MPs make a complaint on behalf of a constituent, we will deal with the complaint following our normal processes and keep the councillor or MP informed of progress.

Complaints about non Somerset West and Taunton services

Where a complaint relates to a service or function provided by Somerset County Council we will signpost the customer to the Somerset County Council website

<https://www.somerset.gov.uk/our-information/complaints-comments-compliments/>

In all other instances we will endeavour to signpost the customer to the correct organisation.

Complaints not covered by this policy

Certain types of issues and complaints fall outside of the council's complaints procedure because:

- there are other processes more suitable for dealing with them such as statutory appeal or tribunal process
- they are outside of our control
- they are separate legal or regulatory requirements covering these services

Examples are:

- a complaint that has been previously investigated and responded to
- a complaint that is being or has been, investigated by the Local Government Ombudsman
- matters of law or central government policy
- harassment by neighbours
- complaints from staff about human resource issues such as recruitment, dismissals, pay, pensions and discipline (these are dealt with separately under our human resources policies)
- freedom of information requests, or complaints about the decision, the information provided or how a request was handled (these are dealt with under the Freedom of Information Policy)

- commercial or contractual matters, for example contracts for the supply of goods and services to the council (complaints about the negotiation of council leases, or the disposal of council land should be dealt with through this policy and procedure, as such complaints are within the jurisdiction of the Local Government Ombudsman)
- complaints that have already been decided by a court or independent tribunal are not covered by our procedure, but complaints about the implementation of a court or tribunal's decision may be investigated, for example the recovery of council tax after a liability order has been obtained
- Services for which there are alternative statutory appeal or tribunal processes, including: appeals against the refusal of planning permission or planning enforcement, parking appeals, complaints about registered housing providers, housing benefit appeals, homelessness decisions, acceptance on housing waiting list, council tax and housing benefit calculations, a complaint that has been previously investigated and responded to and complaints about councillors

Where the subject of a complaint is covered by specific regulatory procedures, it must be dealt with through those procedures. However, when a customer is unhappy about the way that an appeal or tribunal matter was handled, for example a delay in preparing the council's submission to a tribunal or appeals panel, this should be dealt with under this complaints procedure. If the complaint is about the attitude of staff when handling an appeal or tribunal matter this falls under the council's complaints procedure.

Housing Ombudsman

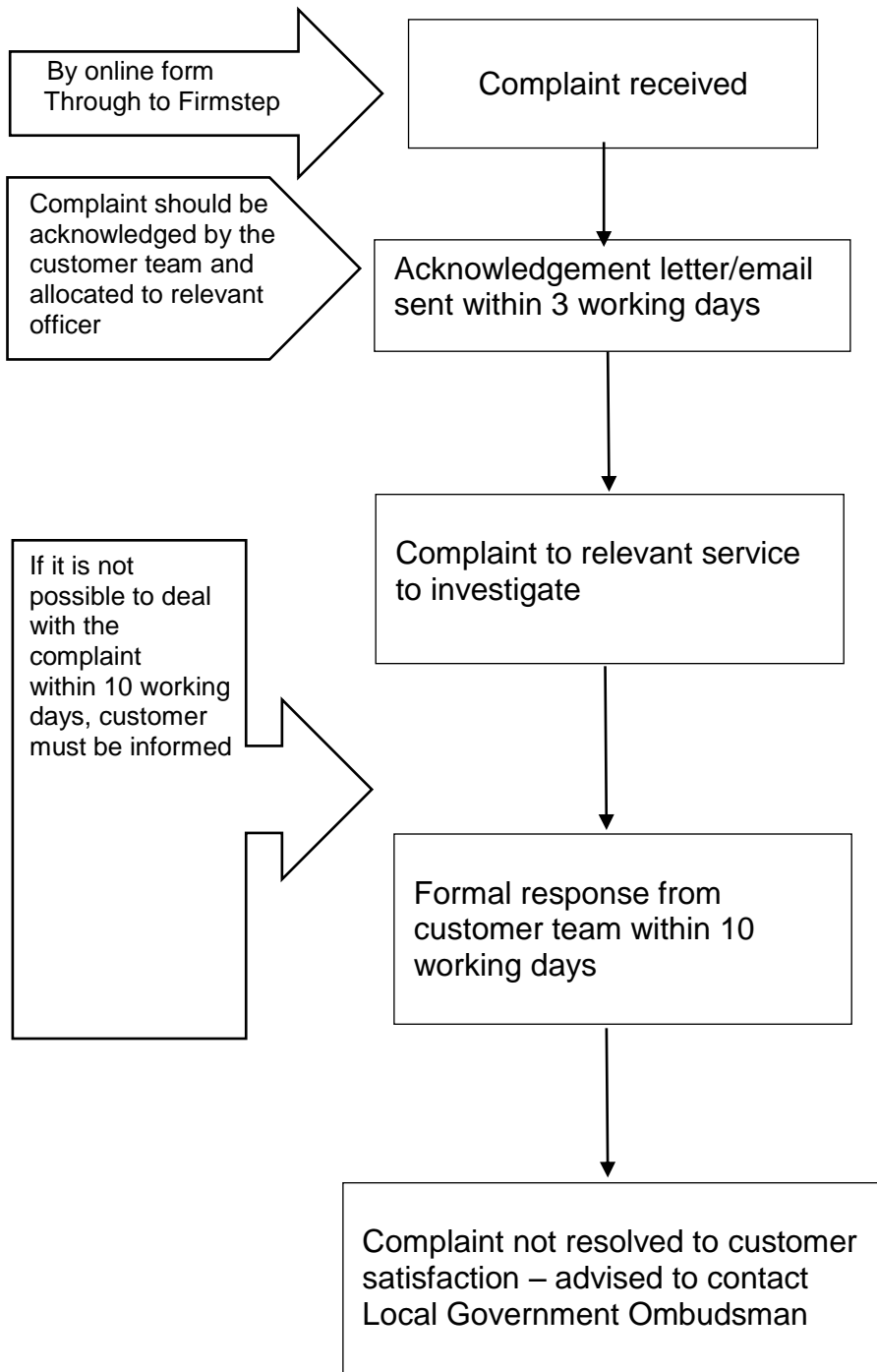
Complaints about social housing (landlord/tenant issues) may be referred to the Housing Ombudsman if a complainant remains dissatisfied with the council's response. A period of eight weeks must pass between the council's final response and the complainant referring the matter to the Ombudsman.

Contacting the Housing Ombudsman

[Housing Ombudsman Service](#)

Tel: 0300 111 3000

Annex 2 – Complaint process map



Somerset West and Taunton Council

Policy for unreasonable customer behaviour and vexatious requests

1.0 Introduction

- 1.1 We are committed to providing what you need, in the way you want and to the standard you expect. We believe that dealing effectively with complaints and customer requests for information is essential to providing good services.
- 1.2 We will process complaints either in line with our Complaints Policy. The term complaint in this guidance also covers requests made under the Freedom of Information Act and the Data Protection Act.
- 1.3 We will make every effort to achieve a satisfactory outcome for each customer.
- 1.4 Unfortunately, in a minority of cases people pursue their complaints or requests for information in a way that is unreasonable. In some instances, this can have a negative impact on the handling of their complaint or request. It can also have a significant impact on our resources and on our ability to provide services to our other customers.
- 1.5 This procedure covers complaints and Freedom of Information requests.

2.0 Purpose

- 2.1 The purpose of this document is to:
 - define unreasonable customer behaviour
 - explain what we consider to be unreasonable customer behaviour
 - define persistent complaints
 - define vexatious requests
 - explain what we consider to be vexatious requests
 - explain what action we will take on unreasonable, persistent and vexatious complaints

3.0 What is unreasonable customer behaviour?

- 3.1 We define unreasonable behaviour as:
'Unreasonable complainants are those who, because of the nature or frequency of their contacts with the council, negatively impact our ability to deal effectively with their or other people's complaints'.
- 3.2 Unreasonable behaviour may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually an accumulation of incidents or behaviour over a longer period.
- 3.3 We differentiate between 'persistent' customers and 'unreasonably persistent' customers.
- 3.4 Customers making a complaint can be 'persistent' where they feel we have not dealt with their complaint properly and are not prepared to leave the matter there. For

example, it is not unreasonable for a customer to criticise how their complaint is being handled when our published procedures are not followed.

- 3.5 However, some customers may have justified complaints or requests but may pursue them in 'unreasonable' or inappropriate ways such as lengthy phone calls, emails expecting immediate responses, detailed letters or emails every few days. Others may continue to pursue complaints or requests which have no substance or which have already been considered and dealt with. Their contacts with us may be amicable but still place very heavy demands on staff.
- 3.6 Situations can escalate, and in a few cases customers can become abusive, offensive, threatening or behave in a way that we may consider to be unacceptable.
- 3.7 In these circumstances, we may have to restrict access to our premises or staff.

4.0 Examples of unreasonable behaviour

- 4.1 Examples of what we might consider to be unreasonable behaviour includes:
- refusing to specify the grounds of a complaint, despite offers of assistance
 - changing the basis of the complaint/request as the matter proceeds
 - denying or changing statements made at an earlier stage
 - covertly recording meetings and conversations
 - submitting falsified documents from themselves or others
 - making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses
 - refusing to accept the decision or repeatedly arguing points with no new evidence
 - persistently approaching the council through different routes about the same issue
 - causing distress to staff - including use of hostile, abusive or offensive language, or an unreasonable fixation on an individual member of staff
 - making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced

5.0 What is a vexatious request?

- 5.1 We define a vexatious request as:
'A request that is likely to cause distress, disruption, irritation, without any proper or justified cause or grounds for action'.
- 5.2 A vexatious request may include one or two individual requests for information, or may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute or it is the latest in a lengthy series of overlapping requests.
- 5.3 However, we will not automatically refuse a request simply because it is made in the context of a dispute or if it forms part of a series of requests.
- 5.4 We will consider each request for information on its own merits and we will not automatically refuse a request because the individual may have caused problems in the past. We will ensure that we consider whether the request (and not the requester) is vexatious with our focus being on the request itself.

5.5 Where a request is considered to be vexatious we may make the decision not to provide the information.

6.0 Examples of vexatious requests

6.1 Examples of what we might consider to be vexatious requests are shown below. The list is not exhaustive and for a request to be considered as vexatious it is likely that more than one of the examples is relevant:

- Submission of obsessive requests with very high volume and frequency of correspondence.
- Requests for information the requester has already seen or a clear intention to reopen issues that have already been considered.
- Where complying with the request would impose significant or disproportionate burden on the council in terms of expense, and negatively impact our ability to provide service to others. In this situation, we will also consider section 12 (exemption where cost exceeds the appropriate limit) of the Freedom of Information Act.
- Where the requester states that the request is actually meant to cause maximum inconvenience, disruption or annoyance.
- Where the request lacks any serious purpose or value. An apparent lack of value would not usually be enough on its own to make a request vexatious, but may do when considered with other examples.
- Harassing the council - this could include very high volume and frequency of correspondence, or mingling requests with accusations and complaints.

7.0 Action to be taken on unreasonable customer behaviour and vexatious complaints

7.1 As set out in earlier sections of this policy, and based on a case by case basis, action may be taken to restrict access to our premises or staff or to make the decision not to provide the information to the complainant.

7.2 However, if there is further 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

7.3 There is the option of referring the case to the Council's legal department to determine if the complaint is to be categorised as unreasonable, persistent or vexatious.

7.4 The Legal department will investigate the issues and provide a response within 10 working days, wherever possible. In complex cases this time may be extended to a maximum of 12 weeks. The complainant should be notified that the complaint is being investigated to determine if it is unreasonable, persistent or vexatious.

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

7.6 Once the review has been completed the Legal department will determine if the complaint should be classified as a vexatious complaint and will inform the Senior Leadership Team of the outcome. The Senior Leadership Team can then make all

services aware of this decision and determine what actions are to be taken. Any appeal against the decision will be determined by the Chief Executive.

- 7.7 It is important that all staff, particularly front line staff, are made aware of any restriction to access of our services or officers.
- 7.8 The Council's Legal department 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. They will also inform the Ward Member(s).
- 7.9 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 our premises or staff will be reviewed.