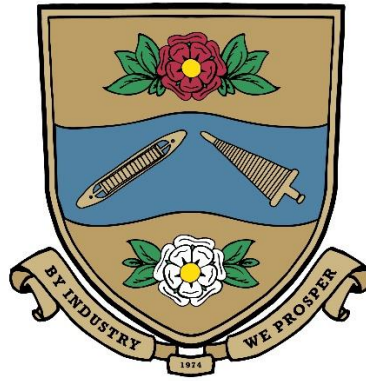


# Todmorden Town Council



TODMORDEN TOWN COUNCIL

## FREEDOM OF INFORMATION VEXATIOUS REQUESTS POLICY

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## **Appendix 1**

Indicators of vexatious requests

# TODMORDEN COUNCIL FREEDOM OF INFORMATION VEXATIOUS REQUESTS POLICY

This policy sets out Council's stance on vexatious or abusive complaints, demands and/or repeated requests for information including Freedom of Information requests and how they will be dealt with.

## 1. Vexatious or Abusive Complaints/Freedom of Information Requests

- 1.1 Most complainants or people making Freedom of Information requests behave in legitimate ways. A very small minority make complaints/requests that are vexatious, in that they persist unreasonably with their complaints/requests or make complaints/requests in order to make life difficult for the Council rather than genuinely to resolve a grievance.
- 1.2 The Council recognises that it is important to distinguish between people who make a number of complaints/requests because they genuinely believe things have gone wrong, and people who are seeking to subvert the legitimate business of the council. It is acknowledged that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of each case rather than the way in which they are expressed.
- 1.3 It is not necessary to meet a person's unreasonable demands, or to answer every single point in an unreasonable letter. Judgement will be required to separate a person's legitimate queries from those that are unreasonable, often within the same complaint. Skill will be required to respond tactfully and sympathetically. If the person's persistence adversely affects the Council's ability to do its work and provide a service to others, the Parish Council need to address such behaviour.
- 1.4 Where the Clerk is of the view that complaints, requests or persons could be identified as vexatious (in accordance with the criteria set out in Appendix 1), the Clerk will refer the matter to the Review and Staffing Panel for a decision and their determination of what action to take. The Clerk will implement such action and will notify the complainant that their complaint/request is considered as vexatious and what action that will be taken. This notification will be copied to all Councillors and a record kept of the reasons why a complaint/request has been classified as vexatious.
- 1.5 The Council may deal with vexatious complaints/requests in one or more of the following ways:
  - In a letter, setting out a code of commitment and responsibilities for the parties involved if the Parish Council is to continue processing the complaint/request. If these terms are contravened, consideration will then be given to implementing other action as indicated below.
  - Decline contact with the complainant, either in person, by telephone, fax, email or any combination of these, provided that one form of contact is maintained which will usually be by conventional post (letter).
  - Notify the complainant/requestor in writing that the Council has responded to the points raised and tried to resolve the complaint/request but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant/requestor will also be notified that the correspondence is at an end and the Council does not intend to engage in further correspondence dealing with the complaint/request.
  - Inform the complainant/requestor that the Council intends to seek legal advice on unreasonable or vexatious complaints/requests and behaviour.

- Temporarily suspend all contact with the complainant/requestor in connection with the issues relating to the complaint/request being considered.

## **2. Restricting Contact**

2.1 Any restrictions will be appropriate and proportionate to the nature of the person's contacts with the Council at the time such as:

- Placing time limits on telephone conversations and personal contacts;
- Limiting the person to one form of contact (letter);
- Requiring the person to communicate only with one named employee/member;
- If a complaint is currently going through the Council's complaints procedure, asking the complainant to enter into a written agreement about their future conduct if the complaint is to be progressed;
- Closing the investigation into a complaint;
- Refusing to register and process further complaints/requests providing the person with acknowledgements only;
- Banning a person from the Council's premises;
- Involving the police where the person is believed to have committed a criminal offence (harassment, assault or criminal damage), where assault is threatened, or the complainant refuses to leave council premises.

2.2 The Clerk will inform the complainant/requestor in writing why a decision has been made to restrict or stop future contact, the contact arrangements and the length of time that these restrictions will be in place.

2.3 There should never be a blanket ban for an unspecified period of time unless the Council is legally required to do so following a police investigation. The Council should always try to maintain one form of contact which will normally be by way of conventional post (letter). In extreme situations the Council will tell the complainant in writing that they must restrict contact to communication through a nominated advocate known and declared to be acting on their behalf.

2.4 In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other residents, Council employees, councillors and co-opted members do not suffer any disadvantage or undue stress and the resources of the Council are used as effectively as possible.

## **3. Threatening and Abusive People and Harassment**

3.1 We do not expect staff or members to tolerate unacceptable behaviour by people which causes or may cause undue stress. The Council believes that harassment is totally unacceptable. The Council will work to prevent any form of harassment from happening in the first instance and where it has already occurred, will work to prevent it from happening again.

3.2 Harassment is a term that is generally used to define unwelcome and unwarranted behaviour that affects the dignity of an individual or group of individuals. Harassment may also include actions characterised as offensive, intimidating, malicious, insulting or humiliating that attempts to undermine or injure an individual or group of individuals.

- 3.3 Where there is abusive or aggressive behaviour which produces damaging or hurtful effects, physically or emotionally, on the staff or members which includes, but not exclusively, verbal abuse (including name calling), bullying, shouting or swearing or threat of any of these behaviours the staff or members affected should step away from the situation and the person asked to leave the premises where appropriate.
- 3.4 This can mean terminating a conversation whether it is face to face or by telephone, advising that the conversation is being terminated, and in the case of such behaviour in a face-to-face contact in the office or public meeting the person should be asked to leave the premises.
- 3.5 All such incidences must be documented. This will, in itself, cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be continued through written communication by post.
- 3.6 Any complainant/requestor who threatens or uses physical violence towards staff or members will receive written confirmation that they are being treated as a vexatious complainant/requestor and informed of the action that will be taken.

#### **4. Legal References**

- 4.1 Under the Freedom of Information Act 2000 Section 14(1), public authorities do not have to comply with vexatious requests. The Council also has a legal duty under the Health and Safety at Work etc. Act 1974 to ensure, so far as is reasonably practicable, the health, safety and welfare at work of its employees and members.

#### **5. Review**

- 5.1 This policy will be reviewed every year (or earlier if required by changes to legislation or additional documentation) and amended as necessary based on good practice or evidence taken forward.

## Appendix 1

Some of the indicators to be used by the Council to identify whether a request for information is vexatious (ICO Guidance – ‘Dealing with Vexatious Requests’).

**Abusive or aggressive language** - The tone or language of the requester’s correspondence goes beyond the level of criticism that a public authority or its employees should reasonably expect to receive.

**Burden on the authority** - The effort required to meet the request will be so grossly oppressive in terms of the strain on time and resources, that the authority cannot reasonably be expected to comply, no matter how legitimate the subject matter or valid the intentions of the requester.

**Personal grudges** - For whatever reason, the requester is targeting their correspondence towards a employee or office holder against whom they have some personal enmity.

**Unreasonable persistence** - The requester is attempting to reopen an issue which has already been comprehensively addressed by the public authority, or otherwise subjected to some form of independent scrutiny.

**Unfounded accusations**- The request makes completely unsubstantiated accusations against the public authority or specific employees.

**Intransigence** - The requester takes an unreasonably entrenched position, rejecting attempts to assist and advise out of hand and shows no willingness to engage with the authority.

**Frequent or overlapping requests** - The requester submits frequent correspondence about the same issue or sends in new requests before the public authority has had an opportunity to address their earlier enquiries.

**Deliberate intention to cause annoyance** - The requester has explicitly stated that it is their intention to cause disruption to the public authority or is a member of a campaign group whose stated aim is to disrupt the authority.

**Scattergun approach** - The request appears to be part of a completely random approach, lacks any clear focus, or seems to have been solely designed for the purpose of ‘fishing’ for information without any idea of what might be revealed.

**Disproportionate effort** - The matter being pursued by the requester is relatively trivial and the authority would have to expend a disproportionate amount of resources in order to meet their request. No obvious intent to obtain information The requester is abusing their rights of access to information by using the legislation as a means to vent their anger at a particular decision, or to harass and annoy the authority, for example, by requesting information which the authority knows them to possess already.

**Futile requests** - The issue at hand individually affects the requester and has already been conclusively resolved by the authority or subjected to some form of independent investigation.

**Frivolous requests** - The subject matter is inane or extremely trivial and the request appears to lack any serious purpose. The request is made for the sole purpose of amusement.