



## BEVERLEY TOWN COUNCIL

### POLICY ON ACCESS TO COUNCIL SERVICES & DEALING WITH DIFFICULT & VEXATIOUS CUSTOMERS

#### 1. RIGHTS OF PUBLIC ACCESS

- 1.1 The Council recognises that in the absence of good reasons to the contrary, members of the public have a right of access to the Council to seek advice help or services that the Council offers.
- 1.2 Criticism of and complaints against the Council are a welcome legitimate and necessary part of the relationship between the Council and its local community. They are a valuable means of reflecting on the operations of the Council and improving both those operations and the quality of the Council's relationship with its local community.
- 1.3 Nobody, no matter how much time and effort is taken up in responding to their complaints and concerns shall be unconditionally deprived of the right to have those complaints or concerns addressed.
- 1.4 However the Council also has an obligation to use its resources efficiently and effectively and has obligations to its staff as an employer.
- 1.5 Accordingly the Council has decided that there are circumstances in which it will limit the nature and scope of its responses to difficult customers.

#### 2. DIFFICULT/VEXATIOUS CUSTOMERS

- 2.1 There are various types of difficult customers and this policy shall apply to them all other than to those that are aggressive. See 3 - Aggressive behaviour.
- 2.2 **Categories of difficult and vexatious customers:**
  - 2.2.1 Those **who cannot let go** - people who
    - make excessive phone calls, or
    - seek to exercise excessive personal contact, or
    - engage in lengthy correspondence
  - 2.2.2 Those **who cannot be satisfied** - people who
    - cannot or will not accept that the Council is unable to assist them, or
    - cannot or will not accept that the Council is unable to provide any further level of service other than that provided already, or
    - disagree with the action the Council has taken in relation to that complaint or concerns
  - 2.2.3 Those **who make unreasonable demands** - people who make unreasonable demands on the Council whether by
    - The amount of information, or
    - The value and scale of services they seek, or
    - The number of approaches they make
  - 2.2.4 Those **who are rude and abusive** - people who
    - engage in personal abuse, or
    - make inflammatory statements or comments, or

- make statements or comments clearly intended to intimidate

### **3. AGGRESSIVE BEHAVIOUR**

The Council has a zero tolerance statement with regard to violence and aggressive behaviour towards its staff. The Council has a duty to ensure that as far as is practically possible, it reduces the risk of violence, aggressive, or threatening behaviour towards its employees during the course of their work. The Council affords the same protection to its members.

Other sections in this policy cover the limiting of access and the way in which staff are instructed to deal with individuals that use inappropriate language and display abusive, aggressive, or threatening behaviour.

### **4. GUIDING PRINCIPLES ON LIMITING ACCESS**

The Council will limit the nature and scope of access in the following circumstances:

- Where full access would be likely to compromise the Council's obligations as an employer;
- Where full access would be likely to compromise any statutory obligations to which the Council is subject;
- Where full access would be likely to be wasteful of the Council's resources whether through excessive contact or use of services;
- Where full access would be likely to encourage or allow rude and abusive behaviour.

### **5. LIMITING ACCESS IN PARTICULAR CIRCUMSTANCES**

#### **5.1 Not replying to written communications**

5.1.1 where the Council receives a written communication that contains substantial and clearly inappropriate content such as abusive or threatening language or adverse personal reflections on individuals, a written notification shall be sent to the author of the written communication asking that they reframe the communication so as to exclude the inappropriate content and advising that in the event that a further substantial and clearly inappropriate communication is received by the Council the Council will not give a substantive reply other than to the extent that such communication provides evidence of or alerts the Council to any criminal act mal-administration a failure to comply with a legal duty or other malpractice by or on behalf of the Council.

#### **5.2 Terminating telephone calls**

5.2.1 Where a caller uses inappropriate language such as abusive or threatening language or casting adverse personal reflections on individuals then the caller will be warned that unless the caller is prepared to speak in a different way, the call will be terminated. If the caller then continues to use inappropriate language the call may be terminated provided that it is made clear that the caller may call back if the caller is then prepared to speak in a different way.

5.2.2 In cases of persistent callers using inappropriate language a written notification shall be sent to the caller advising that in the event that any further telephone call is made and the caller uses inappropriate language, not only will the call be terminated but also that for a specified period all future business will only be transacted in writing or through a nominated and agreed intermediary

5.2.3 Any written notification shall be given in accordance with the procedure set out in 5.1.2 above

#### **5.3 Limiting face to face contact**

5.3.1 Where, during a personal attendance a customer uses inappropriate language or behaves inappropriately, the customer will be notified that unless the customer is prepared to speak or behave in a different way the personal attendance will be terminated. If the customer then continues to use inappropriate language or behaves inappropriately, the personal attendance may

be terminated provided that it is made clear that another personal attendance may be arranged by appointment if the customer is prepared to speak or behave in a different way. Any further personal attendances shall be in the company of a member of the Council. Such arrangement shall be for such specified period as the Council thinks necessary provided that the arrangement shall be reviewed in any case where such arrangement is in place for a period in excess of 6 months not less frequently than once every 6 months. The customer shall be notified in writing accordingly.

5.3.2 In cases of persistent personal attendances where the customer uses inappropriate language or behaves inappropriately a written notification shall be sent to the customer advising that in the event that any further personal attendance takes place and the customer uses inappropriate language or behaves inappropriately, not only will the personal attendance be terminated but that also for a specified period all future business will only be transacted in writing or through a nominated and agreed intermediary.

5.3.3 Any written notification shall be given in accordance with the procedure set out in 5.1.2 above

#### 5.4 **Excessive access**

5.4.1 Where a customer

- makes excessive phone calls, or
- make excessive visits to Council Offices, or
- engages in excessive written communications, or
- raises the same issues with different staff

The Council may nominate a member of the Council to deal with all contact with the customer for a specified period and shall inform the customer in writing accordingly.

5.4.2 Where a person or a group contacts the Council on a wide range of issues all at once or in a selective way or in a constant stream, the Council may notify the person or group in writing either that only significant and serious issues will be addressed by the Council or that only a certain number of issues will be addressed by the Council in any given period provided always that such arrangements shall not prevent the exercise of any statutory right of a customer to access the Councils services or any of them.

#### 5.5 **Abusing the right to information**

5.5.1 Individuals or groups may place excessive demands on the resources of the Council in making continual and extensive demands for information such as sending large numbers of letters, each containing detailed requests for information or being unwilling to accept documented evidence to support an adequate response.

5.5.2 If the Council is satisfied that the resource demands in responding to such contacts are excessive it may place limits on the manner and/or degree to which the Council will respond to such demands (but not so as to prevent the exercise of any statutory rights of the public to information).

#### 5.6 **Declining to further investigate complaints**

5.6.1 Where having exhausted the Council's Complaints Procedure a complainant remains dissatisfied with the outcome of a complaint, the Council will inform the complainant, in writing, that the Council will decline to respond to any further attempted contact or communications concerning the issues raised by the complainant unless significant new information or new issues are raised which in the opinion of the Council warrants action.

5.6.2 If the Council believes that a complainant is deliberately providing fresh information in a selective way he will advise the complainant in writing to immediately pass on all relevant material to the Council and will also advise the complainant that if such material is raised later that the Council will

require a satisfactory explanation as to why the material was not supplied earlier before agreeing to consider that material.

## 5.7 Miscellaneous

### 5.7.1 Other circumstances in which it may be appropriate to limit access include:

- Where a customer is unwilling to accept that the matter raised by them is not within the remit of the Council
- Where a customer displays unreasonable demands or expectations and fails to recognise that these are unreasonable such as insisting on responses to be made more urgently than the Council's response time.

## 6. PERSONS UNDER A DISABILITY

### 6.1 Impaired mental capacity

6.1.1 Where it appears that a difficult customer may have an impaired mental capacity, no action or decision will be taken without first consulting with the Council as to whether there is any other way of dealing with the proposed limitations on access that is less restrictive of the customers freedom of action such as securing continued access through a relative, friend, carer or other professional. However it should always be remembered that the customer has a right to confidentiality and may not want certain people to be involved.

### 7.2 Persons under the age of 18

7.2.1 In the case of a difficult customer who is under the age of 18 one form of contact - generally by means of written communication - must always be maintained. It may be possible to arrange to deal with such a customer through their parent or guardian provided that written consent of both the customer and their parent or guardian is first obtained.

## 8. NO RESTRICTIONS ON COUNCIL'S OR ITS EMPLOYEES OR ITS MEMBERS RECOURSE TO LAW

Nothing in this policy shall operate so as to impede the right of the Council or an employee or a Member to have recourse to the civil and/or criminal law where such recourse is available to the Council or employee or Member in any particular case. Guidance is below with regard to the Freedom of Information Act.

Beverley Town Council adopted this Policy on:

25th February 2019

Signed

Councillor Bryan Pearson, Mayor of Beverley

Signed

Helen Watson, Town Clerk

# Freedom of Information Act Guidance regarding Vexatious and Repeated Requests

## Vexatious and Repeated Requests

The Freedom of Information Act which came into force in January 2005 places a general duty on public authorities to give access to official information. Whilst most members of the public will exercise their new rights sensibly and responsibly, the Information Commissioner recognises there is a risk that some individuals - and perhaps some organisations - may seek to abuse these new rights with requests which are manifestly unreasonable and which would impose substantial burdens on the financial and human resources of public authorities. Such cases are known as Vexatious or Repeated Requests, and may well arise in connection with a grievance or complaint which an individual is pursuing against the authority.

### Part 1 - Vexatious Requests

Section 14(1) of the Act states that "the general right of access to information does not oblige a public authority to comply with a request for information if the request is vexatious." An important point to note here is that it is the request rather than the requester which must be vexatious. A useful test which a public authority could apply in determining whether to comply with a request for information in such circumstances is to judge whether the information would be supplied if it were requested by another person, unknown to the authority. If this would be the case, the information must be provided as the public authority cannot discriminate between different requesters.

#### How is it possible to identify a single request as vexatious?

There are a number of ways in which it may be possible to identify individual requests as being vexatious. The following list is intended as a guideline:

- The applicant has explicitly stated that it is his or her intention to cause a public authority the maximum inconvenience through their request
- The authority has independent knowledge of the intention of the applicant (or an organisation/campaign group) to cause a public authority the maximum inconvenience through making requests.
- The request is clearly so lacking in serious purpose or value that it can only be fairly treated as "vexatious". Before reaching such a conclusion, however, a public authority should be careful to consider any explanation which the applicant gives as to the value in disclosing the information which may be made in the course of an appeal against refusal
- Where much of the information requested falls within an exemption(s) and requires extensive editing, the remaining information may be meaningless or of no real use to the applicant. This will depend on what has been requested and whether the applicant is (or becomes) aware of the likely result. Again, it will be important to give proper consideration to any explanation which the applicant gives as to the value in disclosing the information.
- The request is for information which the applicant clearly understands to be exempt.
- The request can fairly be characterised as one which a reasonable person would describe as obsessive or manifestly unreasonable. But, authorities must take care not to be judgmental without good cause and dismiss an apparently tedious request, which in fact relates to a genuine concern. . It is usually easier to identify such requests when there has been frequent prior contact with requester or the request forms part of a pattern of successive requests for information.

#### Can a public authority take account of abusive or threatening language?

A request which either contains abusive or offensive language or is written in a threatening tone will not automatically render the request vexatious. Although unpleasant, it would not necessarily forfeit the applicant's rights under FOI if the request is nevertheless clearly requesting information. Public authorities should, also be aware of their general obligations under the Disability Discrimination Act, when dealing with users of mental health services.

### **Are requests submitted under obvious pseudonyms automatically vexatious?**

The Act requires applicants to make requests for information in writing and to state his or her name and an address for correspondence. Technically, therefore a request submitted using a pseudonym is not a proper request and could be refused on that ground. However, the Act does not allow public authorities to enquire into the circumstances of the applicant or to ask for information in order to verify identities.

## **Part 2 : Repeated Requests**

Section 14(2) of the Act states that: "where a public authority has previously complied with a request for information which was made by any person, it is not obliged to comply with a subsequent identical or substantially similar request from that person unless a reasonable interval has elapsed between compliance with the previous request and the making of the current request."

### **What is a "reasonable interval"?**

The term "a reasonable interval" is not defined in the Act and in the first instance this is for the public authority to determine, depending on the type of information sought and any advice previously provided to the applicant. Much will also depend on the nature of the public authority's business, eg. if it regularly updates records, it might be reasonable for an applicant to make requests for information more often.

### **Can a request be classified as repeated simply on the basis of the content of the request?**

No, the request must be put into context. This is because in certain cases, information that the public authority would disclose if complying with the application might not be the same as the information previously released. The following are examples of this:

- The information held in relation to a request has changed since the request was last made, e.g., two requests received from the same applicant, a month apart, requesting a public authority's most recent monthly performance statistics would not be considered to be a repeated request because the information has changed since the previous request.
- A request asking if any of the information has changed since it was previously requested. If the information has changed, these requests must be complied with. If it has not, this should still be classified as a new request for information as it is asking a specific question. This obligation also applies if the content of the repeated applications are the same but the applicant genuinely thinks that the information held has changed. However, if the applicant has been informed when the information is due to change and sends another request before that time, this subsequent request would be judged as repeated.

### **Can requests be both repeated and vexatious?**

Yes. This may often be a difficult judgment to make. Such a judgment may become easier however, if there is a succession of requests, the effect of which is designed to subject the public authority to inconvenience, harassment and expense

### **Are there certain kinds of repeated requests to which a public authority should consider responding as a matter of best practice?**

Yes - even though a request may be repeated, there will be cases where a positive response should be considered. The following are examples:

- The applicant states that he or she lost the information but still requires it;
- The applicant states that he or she disposed of the information but has subsequently discovered that it was still required;
- The applicant reasonably requires another copy of the information previously sent to them, for instance because they have been obliged to supply the original to another body;
- Where some of the information requested is new, but the rest has previously been supplied to the applicant. In such "hybrid" cases, it might be easier to comply with the request but only supply the information which has changed and classify the remainder of the request as repeated.

### **Part 3 - Refusing a vexatious or repeated request**

When refusing a vexatious or repeated request, a public authority must issue a refusal notice. This must be done not later than 20 working days after the request is received. Below is a basic guide to the steps that should be taken:

- Confirm or deny whether the information is held (unless to do so would constitute disclosure of exempt information).
- Explain why the request is considered to be vexatious or repeated.
- Outline your authority's appeals procedure (or clearly state that no procedure exists if this is the case).
- Provide details of the right to appeal to the Information Commissioner.

A public authority need not, however, provide a notice of refusal in the case of repeated requests if a similar notice has been given previously