

LISKEARD TOWN COUNCIL

Statement of Principle – Within the limits of its resources, the Town Council is determined to improve the economic, social and environmental well being of the community of Liskeard. To this end it will concentrate on optimising service delivery for the benefit of the whole of Liskeard. The Town Council is committed to the provision and sharing of information which is essential to the development of good community relations.

COMPLAINTS POLICY AND UNREASONABLE BEHAVIOUR AND VEXATIOUS COMPLAINTS POLICY

Liskeard Town Council recognises that from time to time there will be concerns expressed by members of the public over the activities of the Council or one of its members or employees. To address these issues the Council has adopted a procedure for the handling of complaints. This procedure allows people to have a form of address to the Council if they feel they have a complaint or have been unfairly treated in their dealings with the Council staff, Councillors, the Council or its Committees. However, the Council will only deal with contact with members of the public complaints which conform to the guidance supplied to the public by the Information Commissioners Office (ICO).

INFORMATION COMMISSIONERS OFFICE (ICO) The Information Commissioner's Office (ICO) is the independent regulatory office in charge of upholding information rights in the interests of the public.

The ICO provides the public with guidance on how to approach organisations such as, Town Councils, with complaints and requests for information. This is attached in full as an appendix. The Town Council will deal with all contacts from the public in accordance with that guidance. The term 'Town Council' being taken to include the all staff, councillors and volunteers.

The guidance indicates that members of the public:

- should use their real name and actual contact details.
- should not use offensive or threatening language.
- should not use requests as a way of 'scoring points'
- should not submit frivolous or trivial requests.
- should not make personal attacks on employees*. (*which the Town Council will take to include councillors and volunteers)

If contact is received that does not conform to the recommendations of the Information Commissioners Office (ICO), the staff, councillors and volunteers are not obliged to answer it. Indeed, the measures outlined in the attached "Unreasonable Behaviour and Vexatious Complaints Policy" will be applied. These measures could include referring the incidents to the Police and blocking further contact with the individual for a period of 3 – 6 months (and in extreme cases up to 2 years).

VERBAL COMPLAINTS

1. On receipt of a complaint by telephone, letter, fax or email the Town Clerk will try to satisfy the complainant immediately or as soon as is practicable.
2. If the Town Clerk is unable to answer the complaint immediately, then full details of the complaint together with the complainant's telephone number etc. will be recorded so that a further verbal response can be made as soon as possible.
3. If a verbal response is unable to satisfy, then the Town Clerk/member will ask that the complaint be put in writing in order that it can be investigated more fully.

WRITTEN COMPLAINTS

1. On receiving a written complaint, the Town Clerk shall try to settle the complaint directly.
2. If the complaint is about the behaviour of a member or employee of the Council, the Town Clerk must also notify the person and offer the opportunity for comment on the manner in which it is intended to try and settle the complaint.
3. If necessary, the Town Clerk will send a holding letter to the complainant to allow further time to address the issues raised.
4. The Town Clerk or Chairman shall bring any written complaint which has not been settled to the next meeting of the relevant Committee or Council and the Town Clerk shall notify the complainant of the date of the meeting. The Complainant will be offered the opportunity to explain the nature of the complaint to the meeting.
5. The Town Clerk shall consult with the Mayor/Deputy Mayor to consider whether the written complaint warrants discussion at a meeting of the relevant Committee or Council in the absence of the press and public, with the decision on the complaint shall be announced at the relevant Committee or Council meeting in public.
6. The Town Clerk will communicate in writing the decision that has been made by the relevant Committee or Council and the nature of any action taken by the relevant Committee or Council.

COMPLAINTS AGAINST AN OFFICER OF THE COUNCIL

1. Any complaint against an officer must be submitted in writing with the real name and address of the complainant included.
2. If the complaint is against the actions of the Town Clerk, it should be submitted in writing to the Mayor.
3. If the complaint is made against the actions of an employee, it will be considered as an employment issue and the Town Clerk will present the complaint to the Staffing Sub Committee of the Council for consideration at a meeting held in the absence of the press or public.
4. If the complaint is made against the actions of the Town Clerk, it will be considered as an employment issue and the Mayor will present the complaint to the Staffing Sub Committee of the Council for consideration at a meeting held in the absence of the press or public.

5. The Complainant may be invited to attend part of the meeting to explain the nature of their complaint, in the absence of the public and press.
6. Persons mentioned in the complaint will have the opportunity to will explain the nature of their actions to the meeting, in the absence of the public and press.
7. The result of any council consideration of a complaint will be announced at a Council meeting in public.

COMPLAINTS AGAINST A MEMBER OF THE COUNCIL

Town Councillors sign up to a Code of Conduct on taking office. The Council is unable to investigate complaints against any of its members. If you wish to submit a complaint for breach of this code should do so to the Monitoring Officer at Cornwall Council.

Mr S Mansell
Governance and Information Manager
Cornwall Council
Treyew Road
TRURO
Cornwall

Tel: (01872) 322704

E-mail simon.mansell@cornwall.gov.uk

Further information can be accessed from www.cornwall.gov.uk

UNREASONABLE BEHAVIOUR AND VEXATIOUS COMPLAINTS POLICY

Summary

This policy should be read in conjunction with the Council's Complaints Policy and sets out the procedure for dealing with unreasonable behaviour or vexatious complaints.

Dealing with a complaint is a straightforward process but in a minority of cases, people pursue their complaints in a way that is unreasonable, persistent or excessive and which negatively impacts upon the Council's resources, officer, councillor and volunteer time and its ability to provide services to other customers. This can happen either while their complaint is being investigated, or once the Council has finished dealing with the complaint.

We are committed to dealing with all complaints equally and in a timely manner as set out in our Complaints Policy. We will not normally limit the contact which complainants have with Council staff.

We do not expect staff, councillors and volunteers to tolerate unacceptable behaviour by complainants.

Unacceptable behaviour includes behaviour, which is abusive, offensive or threatening.

We will act to protect staff, councillors and volunteers from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy.

Raising 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 the complaint being regarded as vexatious.

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 unreasonably persistent.

What is an Unreasonably Persistent or Vexatious Complaint?

We define unreasonably persistent and vexatious complaints as those which, because of the frequency or nature of the complainant's contacts with the Council, hinder our consideration of their or other peoples' complaints or the provision of our wider services to the community. The description "unreasonably persistent" and "vexatious" may apply separately or jointly to a complaint.

An unreasonably persistent and/or vexatious complaint may be one where:

- ☐ there are insufficient or no grounds for the complaint and it is made only to vexate (or for reasons that the complainant does not admit or make obvious);
- ☐ the complainant refuses to co-operate with the complaints' investigation process while still wishing their complaint to be resolved;
- ☐ the complaint is about issues not within the power of the Council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation) and where the complainant refuses to accept this;
- ☐ the complainant insists on the complaint being dealt with in ways which are incompatible with the complaint's procedure or with good practice;
- ☐ it causes distress to Council officers which may include the use of hostile, abusive or offensive language, making threats, harassment and personal insults;
- ☐ making repeated complaints about the same issue, contacting the Council through different routes about the same issue in a persistent manner;
- ☐ refusing to accept a decision, repeatedly arguing points with no new evidence;
- ☐ not following agreed complaint procedures or not co-operating with the process (for example, refusing to provide information requested to clarify a complaint);
- ☐ excessive demands on the time and resources of officers with the expectation of an immediate response – for example frequent and lengthy telephone calls, repeated emails on the same subject, letters sent every few days;
- ☐ changing the basis of a complaint as the matter proceeds;
- ☐ persisting in pursuing a complaint where the Council's complaints process has been fully and properly exhausted;
- ☐ making complaints 'repeatedly or as a habit' without justification; complaints made about various unrelated issues to the extent that the complainant appears to be a 'complainer by nature';

- ☐ refusing to accept evidence provided in response to a complaint, making repetitive complaints and allegations which ignore the replies that Council Officers have supplied in previous correspondence;
- ☐ the complainant electronically records meetings and conversations without the prior knowledge and consent of the other person involved;
- ☐ the complaint is the subject of an excessively “scattergun” approach; for instance, the complaint is not only submitted to the Council, but at the same time to a Member of Parliament, other councils, elected Councillors of this and other councils and others;
- ☐ the same complaint is made repeatedly, perhaps with minor differences, after the complaint’s procedure has been concluded and where the complainant insists that the minor differences make these ‘new’ complaints which should be put through the full complaint’s procedure.

Imposing restrictions

In determining whether or not behaviour or a complaint is unreasonable or vexatious, the Council will first ensure that the complaint has been dealt with properly in line with its policy and every effort to satisfy the customer’s expectations and resolve the complaint has been made.

Any restriction that is imposed on the complainant’s contact with the Council will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

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 acting on their behalf;
- ☐ banning the complainant from communicating with an individual and/or all Council officers in a certain way;
- ☐ banning the complainant from accessing any Council building except by appointment;
- ☐ requiring contact to take place with one named member of staff only;
- ☐ restricting telephone calls to specified days / times / duration;
- ☐ requiring any personal contact to take place in the presence of an appropriate witness;
- ☐ letting the complainant know that the Council 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 should be identified who will read future correspondence);
- ☐ informing the complainant that any further complaints from him or her will only be considered if the Town Clerk agrees that it warrants investigation.

The decision to deem behaviour unreasonable or a complaint vexatious will be made by the Town Clerk in consultation with the Town Mayor. Details of any individual’s behaviour deemed to be unreasonable or a complaint vexatious will be reported to the next meeting of the Finance, Economic Development and General Purposes Committee.

When the decision has been taken to apply this policy to a complainant, the Town Clerk will contact the complainant in writing to explain:

- ☐ why the Council has taken the decision,
- ☐ what action the Council is taking,
- ☐ the duration of that action,
- ☐ the review process of this policy, and

The Town Clerk will enclose a copy of this policy in the letter to the complainant.

Where a complainant continues to behave in a way which is unacceptable, the Town Clerk may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the Council may not give the complainant prior warning of that action.

New complaints from complainants whose previous complaints have been treated as abusive, vexatious or persistent.

New complaints from people to whom the policy has already been applied will be treated on their own merits. The Town Clerk will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. The Council does not support a “blanket policy” of ignoring genuine service requests or complaints where there are genuine grounds for the complaint. The fact that a complaint is judged to be unreasonably persistent or vexatious, and any restrictions imposed on contact with the complainant will be recorded and notified to those who need to know within the Council.

How to access information from a public body



What can I request?

The Freedom of Information Act, Environmental Information Regulations and INSPIRE Regulations give you rights to access official information.

Under the Freedom of Information Act and the Environmental Information Regulations you have a right to request any recorded information held by a public authority, such as a government department, local council or state school. Environmental information requests can also be made to certain non-public bodies carrying out a public function.

- You can ask for any information you think a public authority may hold. The right only covers recorded information which includes information held on computers, in emails and in printed or handwritten documents as well as images, video and audio recordings.
- You should identify the information you want as clearly as possible.
- Your request can be in the form of a question, rather than a request for specific documents, but the authority does not have to answer your question if this would mean creating new information or giving an opinion or judgment that is not already recorded.
- Some information may not be given to you because it is exempt, for example because it would unfairly reveal personal details about somebody else.

You don't have to know whether the information you want is covered by the Environmental Information Regulations or the Freedom of Information Act. When you make a request, it is for the public authority to decide which law they need to follow.

The INSPIRE Regulations require public authorities that hold spatial or geographic information to make it available so that you can search it in particular ways.

What should I do before I make a request?

You can ask for any information you choose, at any time, but you may not always succeed in getting it. Before you make a request, it may help to consider the following questions.

- Is the information you want already available, for example, on the authority's website?
Authorities must make certain information routinely available. You can find out what information is available by checking the authority's publication scheme or guide to information. Do this by looking at its website or by contacting the authority.
- Is the information you want your own personal data?
If your request is for information about yourself, such as your medical records, you should make a [subject access request](#) under the Data Protection Act.
- Is the authority likely to have the information?
It may save you time if you check with the authority whether it is likely to have the information you want. For example, you may not be sure whether the information you want is held by your district council or the county council. Public authorities must give reasonable advice and assistance to anyone asking for information, so you should feel free to ask for help in making your request.
- Is the information you want suitable for general publication?
The aim of the Freedom of Information Act is to make information available to the general public. You can only obtain information that would be given to anybody who asked for it, or would be suitable for the general public to see.
- Some information, such as records about a dead relative, or documents you need for legal purposes, may not always be available under the Act. However, you may have a right to see the information you want under other legislation. The public authority holding the information you want should advise you.

What are the legal requirements for a request?

For your request to be dealt with according to the Freedom of Information Act, you must:

- contact the relevant authority directly;
- make the request in writing, for example in a letter or an email. You can make a verbal or written request for environmental information;
- give your real name; and
- give an address to which the authority can reply. This can be a postal or email address.

You do **not** have to:

- mention the Freedom of Information Act or Environmental Information Regulations, although it may help to do so;
- know whether the information is covered by the Freedom of Information Act or the Environmental Information Regulations; or
- say why you want the information.

It is sensible to write the date on any letters or emails you send and keep a copy, so you have a reliable record of your request. If you make a verbal request for environmental information, we recommend that you note who you spoke to, the date, and what information you requested, and you may wish to follow up with a letter or email confirming your request. A written record of a verbal request would be beneficial if you later need to make a complaint.

It can be helpful to check whether the authority recommends you send your request to a specific person or email address. Some authorities allow you to request information via their website. You can also make a request on social networking sites such as Facebook or Twitter.

Some other websites allow you to contact public authorities and make a request through the site. Check that the site will allow the public authority to respond, otherwise it's not a valid request.

If you find it impossible or unreasonably difficult to make a request in writing, a public authority may have to make a reasonable adjustment for you under the Equality Act 2010 (or Disability Discrimination Act 1995 in Northern Ireland). This could mean, for example, that the public authority has to consider treating a verbal request for information as if it was a valid freedom of information request.

The ICO cannot request information from another authority on your behalf. You should address your request directly to the authority. There is no need to send us a copy of your request.

How should I word my request to get the best result?

Most people will exercise their rights responsibly but we also recognise that some individuals and organisations submit requests which may, whether by accident or design, cause a public authority an unjustified or disproportionate level of disruption or irritation. Some requests can cause distress to members of staff in a public authority.

The FOIA has a built in safeguard to protect public authorities from having to deal with such requests (called vexatious requests under Section 14). In the case of the EIR, there is an equivalent provision for requests which are manifestly unreasonable [Regulation 12(4)(b)].

All requests place some degree of demand on a public authority's resources in terms of costs and staff time, and we expect them to absorb a certain level of disruption and annoyance to meet their underlying commitment to transparency and openness under the FOIA and EIR. We also accept requests can be challenging in their language but using threatening or abusive language increases the risk that your request will be refused.

It can be difficult for requesters to understand how information is labelled and organised by public authorities - the Act contains a provision that ensures that public authorities must consider whether they should provide you with advice and assistance, within reasonable limits.

Nonetheless, the amount of time and resources that a public authority has to expend in responding to a request should not be out of all proportion to that request's value and purpose.

You need to consider the dos and don'ts below – think about your request objectively - does it trigger any don'ts? If so you may want to rethink your information request otherwise it may be refused as vexatious.

If your request does lack any serious or clear purpose or if it is not focused on acquiring information, then the FOIA and EIR are probably not an appropriate means through which to pursue your concern. You might do better to explore whether there are other more suitable channels through which to take up the issue with the authority.

You should also bear in mind that the FOIA includes a safeguard against requests which exceed the cost limits for compliance (Section 12). The equivalent provision in the EIR is once again [Regulation 12(4)(b)] - manifestly unreasonable requests.

Therefore, if you are planning to ask for a large volume of information, or make a very general request, you should first consider whether you could narrow or refocus the scope of the request, as this may help you get what you really want and reduce any unnecessary burden or costs on the authority. Alternatively, you could try approaching the public authority for advice and assistance to help you reduce the scope of your request and cut down the cost of compliance – they have a duty to consider what advice and assistance they can provide.

Although you don't have to say why you want the information, if you are happy to do so it might avoid a lot of wasted time and be more likely to get you what you want.

Can a public authority charge for a request?

Yes, a public authority can charge you for the costs of sending the information, such as photocopying and postage. These are known as 'disbursements'.

Information request dos and don'ts

We have produced the following list of dos and don'ts as a quick reference tool to help users make effective freedom of information requests.

Your request will be much more effective if it is clear, specific, focused and unthreatening.

| Do | Don't |
|--|--|
| Find out who to send your request to. If you address your request directly to the appropriate contact within the authority then you may receive a prompter response. | Use offensive or threatening language. |
| Include your name, address and other contact details in the request. | Level unfounded accusations at the authority or its staff. |
| Clearly state that you are making your request under the Freedom of Information Act/Environmental Information Regulations. | Make personal attacks against employees. |
| Be as specific as possible about the information you want rather than asking general questions. Try to include details such as dates and names whenever you can. It may also assist the authority in identifying the information if you explain the purpose behind your request. | Use FOI to reopen grievances which have already been fully addressed by the authority, or subjected to independent investigation with no evidence of wrongdoing being found. |
| Re-read your request to check for any wording which is unclear or open to interpretation. | Make assumptions about how the authority organises its information or tell them how to search for the information you want. |
| Use straightforward, polite language; avoid basing your request or question on assumptions or opinions, or mixing requests with complaints or comments. | Bury your request in amongst lengthy correspondence on other matters or underlying complaints |
| Specify whether you have any preferences as to how you would like to receive the information, for example if you would prefer a paper copy or to receive an email. | Use requests as a way of 'scoring points' against an authority |
| Give the authority ample opportunity to address any previous requests you have made before submitting new ones. | Send 'catch-all' requests for information (such as 'please provide me with everything you hold about 'x') when you aren't sure what specific documents to ask for. If in doubt, try searching on the |

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| | authority's website or enquiring whether any indexes and file lists are available. Alternatively, ask the authority for some advice and assistance in framing your request. |
| Stay focused on the line of enquiry you are pursuing. Don't let your attention start to drift onto issues of minor relevance. | Submit frivolous or trivial requests; remember that processing any information request involves some cost to the public purse. |
| Think about whether making a request is the best way of achieving what you want. If you have an underlying complaint then it may be better to just take your complaint to the relevant ombudsman and let them investigate. | Disrupt a public authority by the sheer weight of requests or the volume of information requested. Whether you are acting alone or in concert with others, this is a clear misuse of the Act and an abuse of your 'right to know'. |
| Aim to be flexible if the authority advises that it can't meet the full request on cost grounds and asks you to narrow it down. Try to work with the organisation to produce a streamlined version of the request which still covers the core information that is most important to you. | Deliberately 'fish' for information by submitting a very broad or random requests in the hope it will catch something noteworthy or otherwise useful. Requests should be directed towards obtaining information on a particular issue, rather than relying on pot luck to see if anything of interest is revealed. |
| | Make repeat requests unless circumstances, or the information itself, have changed to the extent that there are justifiable grounds to ask for the information again. |

What happens after I make my request?

The authority must reply to you within 20 working days. It may:

- give you the information you've asked for;
- tell you it doesn't have the information;
- tell you that another authority holds the information or transfer the request on your behalf;
- under the Freedom of Information Act, say that it has the information and offer to provide it if you pay them a fee (but there are rules about what they can charge);
- under the Environmental Information Regulations, make a reasonable charge for providing information in accordance with their published schedule of charges. Note: If the authority allows you to view a public register or other information in person, at a place of their choice, it cannot charge for this;
- refuse to give you the information, and explain why; or,

- under the Freedom of Information Act, say that it needs more time to consider the public interest in disclosing or withholding the information, and tell you when to expect a response. This should not be later than 40 working days after the date of your request. It can only extend the time limit in certain circumstances, and it must explain why it thinks the information may be exempt;
- under the Environmental Information Regulations, say that it needs more time as the information requested is particularly complex and there is a lot of information to provide. In such cases the time limit can be extended by a further 20 working days as long as the authority respond within the initial time limit stating when it believes it will be able to respond in full.

What can I expect if I have rights under the Equality Act 2010 (or Disability Discrimination Act 1995 in Northern Ireland)?

Under equality law an organisation has a duty to make sure that its services are accessible to all service users. You can request a response in a particular format that is accessible to you, such as Braille, large print, email or audio format.

If you think that an organisation has failed to make a reasonable adjustment, you can make a claim under the Equality Act (or Disability Discrimination Act in Northern Ireland).

Further advice is available from:

- Equality Advisory Support Service (EASS) – <https://www.equalityadvisoryservice.com/>; and
- Citizens Advice – <https://www.citizensadvice.org.uk>.

Will I always get the information I ask for?

Not always. The Freedom of Information Act recognises that there will be valid reasons why some kinds of information may be withheld, such as if its release would prejudice national security or damage commercial interests. For some exemptions the public authority must consider whether the public interest in withholding the information outweighs the public interest in releasing it. If it decides that the information cannot be released it must tell you and explain why. Public authorities are not obliged to deal with vexatious or repeated requests or in some cases if the cost exceeds an appropriate limit. In addition the Act does not provide the right of access to personal information about yourself. This is instead available under the Data Protection Act again, subject to certain exemptions, and is known as a [subject access request](#).

Can I complain if a public authority refuses my request or I am dissatisfied with the way it has been dealt with?

Yes. You should first complain to the authority and ask it to conduct an internal review. For freedom of information complaints we recommend that you do this as soon as possible and within two months of receiving the authority's final response

For environmental information complaints you should make your complaint within 40 working days.

The Information Commissioner's Office recommends that public authorities carry out internal reviews within 20 working days. Under Environmental Information Regulations there is a legal requirement that internal reviews must be carried out as soon as possible and within 40 working days. The authority cannot charge for carrying out an internal review.

If you believe that the public authority has not dealt with your complaint properly, or if it does not have a complaints procedure, [we may be able to help](#).