



Managing unreasonable customer behaviour

July 2019

Tracking

Policy Title	Managing unreasonable customer behaviour		
LT sign off	25 June 2019		
Committee	Strategy and Resources	Date approved	30 July 2020
Review due date	2 years – 30 July 2021	Review completed	
Service	Customer Services		

Revision History

Revision Date	Revisor	Previous Version	Description of Revision

Document Approvals

Each revision requires the following approvals:

Sponsor Approval		Name	Date
Chief Legal Officer			
Leadership Team			

Contents

Purpose	4
What is unreasonable customer behaviour?	4
What is a vexatious request?	6
Violent or abusive behaviour	7
Considerations before action	7
Options for action	8
Review	9
Recording	9
New matters, complaints or requests for information	9
Referring cases to the Local Government Ombudsman and the Information Commissioners' Office	9

We are committed to providing excellent customer service. We know that we do not always get things right and we use the complaint procedures¹ to help customers who are unhappy with our services.

Unfortunately, in a minority of cases people pursue their complaints, requests for information or for service support in a way that is unreasonable. Sometimes 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 or support to our other customers.

Where a customer's behaviour is so extreme that it threatens the immediate health, safety and welfare of Council employees, Councillors, or our contractors working on the Council's behalf, the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the customer prior warning of that action.

Purpose

The purpose of this policy is to:

- Define unreasonable customer behaviour
- Define vexatious requests
- Explain the process we will follow when dealing with customers who behave in an unreasonable way so that everyone knows what they can expect
- Explain the process we will follow when dealing with vexatious requests so that we are open and transparent about how we will deal with such requests.

What is unreasonable customer behaviour?

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. In defining unreasonable behaviour we have taken into account the Local Government Ombudsman's (LGO) definition of unreasonable behaviour. Namely,

“...unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints”.

Some customers may have justified complaints or requests but may pursue them in inappropriate ways e.g. lengthy phone calls, emails expecting immediate responses, detailed letters or emails every few days, or constantly making complaints when they do not achieve their outcome. Others may pursue complaints or requests which have no substance, or which have already been considered and dealt with. Their contacts with us

¹ Corporate complaint 2 stage

may be amicable, but still place very heavy demands on staff. Situations can escalate, and in a few cases complainants become vexatious, abusive, offensive, threatening or otherwise behave unacceptably.

The effect of the unreasonable behaviour of a customer is sometimes to cause harassment or alarm and other times it undermines our ability to deliver a fair service to others. We have a duty to protect our staff, Councillors and our contractors and our service provision to all customers.

Examples of unreasonable behaviour

Examples of what we might consider to be unreasonable behaviour are shown below. 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:

- Raising numerous, detailed but unimportant questions; insisting they are all answered
- Use of hostile, abusive or offensive language causing distress to staff or Councillors
- An unreasonable fixation on an individual member of staff or Councillors
- Making unjustified complaints about staff who are trying to deal with the issue
- Refusing to specify the grounds of a complaint, despite offers of assistance
- Submitting falsified documents from themselves or others
- Seeking an outcome which the Council has already explained is unrealistic for policy, legal or other appropriate reasons
- Sending detailed correspondence every few days and expecting immediate responses
- Covertly recording meetings and conversations with staff or Councillors
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to Council staff or Councillors
- Refusing to accept the decision; repeatedly arguing points with no new evidence
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice
- Raising numerous, detailed but unimportant questions; insisting they are all answered
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of Council services
- Refusing to accept the decision; repeatedly arguing points with no new evidence, complaining about outcome and or denying that an adequate response has been given
- Posting on, or using social media to do any of the matters listed above
- Not accepting matter is within EEBC remit.

What is a vexatious request?

We define a vexatious request as:

“A request that is likely to cause distress, disruption or irritation, without any proper or justified cause” or something that is “manifestly unjustified, inappropriate or improper use of a formal procedure”².

A vexatious request may include one or two individual requests for information, or may form part of a wider pattern of vexatious behaviour. In defining unreasonable behaviour, the Council has also adopted the Information Commissioner Office’s guidance on “vexatious and repeated request”. Namely,

“Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper or justified cause”.

We will use this definition for all requests made of the Council or its Councillors.

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. If a request is vexatious or repeated, we do not have to provide any information, or confirm or deny whether we hold it (however we will issue a refusal notice).

Examples of vexatious requests

The list below is not exhaustive, and for a request to be considered as vexatious it is likely that more than one of the examples is relevant:

- Submitting repeat complaints with minor additions/ variations that the complainant insists make these ‘new’ complaints
- The request is obsessive in nature e.g. a high volume of requests, using requests to open matters that have already been dealt with such as complaints and appeals
- Requests for information the requester has already seen, or clear intention to reopen issues that have already been considered
- Where complying with the request would impose significant burden on the Council in terms of expense, and negatively impact the Council’s ability to provide service to others. In this situation the Council will consider section 12 (exemption where cost exceeds the appropriate limit) of the Freedom of Information Act
- The request has the effect of harassing the Council or distressing staff e.g. use of derogatory language, using a request with complaints and accusations.

² Information Commissioner vs Devon County Council & Dransfield [2012] UKUT440 (AAC), (28 Jan 2013)

Violent or abusive behaviour

There may be circumstances where a customer's behaviour exceeds the definition for unreasonable and becomes threatening, violent or abusive. The following definition applies to the term violent or abusive behaviour:

Any incident, in which an officer or member of the Council who in the course of their Council activity, is verbally abused, intimidated, threatened or assaulted by a member of the public. This includes racially or sexually abusive language, threatening behaviour and any written or any other form of communication which contains abusive or discriminatory language or threats of violence.

This Policy will be applied to all persons, who display aggression including physical attacks that may or may not result in pain or injury; verbal abuse or threats either face to face, over the telephone or within written communications; threatening behaviour or any action that causes anxiety, fear or concern and physical attacks on property.

In any case of violent or abusive behaviour, the Council will consider and take all action need to protect its staff and Members. This may include the immediate step of suspending all contact if necessary, this may occur without prior warning

Considerations before action

We recognise that the decision to classify someone's behaviour as unreasonable, or to classify a request for information as vexatious, could have serious consequences for the individual, including restricting their access to services. We will, therefore, seek to ensure we are appropriate and proportionate in the application of this Policy. If Staff/Councillors feel threatened by a customer they are required to report their concerns. The Council operates a zero tolerance approach towards violence or threatening. We will always report such incidents to the Police.

Before deciding to apply any restrictions, we will ensure that:

- The behaviour, original complaint or request for information, has been dealt with properly and in line with the relevant procedures and statutory guidelines
- We have made every effort to satisfy the request or resolve the issue/ complaint
- There is not another, more specific path for the complainant to follow, for example an appeal process if they are complaining about a decision taken that directly affects them
- Any vulnerability or disability which causes or affects behaviour (in such circumstances it is not likely to be appropriate to restrict the customer's access to services but, depending on the nature of the contact and any concerns about the customer, it may be possible suggest an advocate might be helpful to both parties).

However, where our efforts to resolve matters with the customer have not been successful, we may close the case or matter. Where appropriate we will advise the customer to contact the Local Government Ombudsman or in the case of FOIs/EIRs, SARs, the Information Commissioners Office. We will advise the customer that we will no longer enter into any correspondence about such cases, unless material new information becomes available.

Each case will be considered on an individual basis. The decision to classify a customer as unreasonable or to classify the request as vexatious, will be made by the Head of Service of the relevant service area.

When new issues are raised, these will be treated on their merits. The Council will consider whether any restrictions previously applied are still appropriate and necessary.

Options for action

A customer whose behaviour has been judged to be unreasonable will have restrictions imposed on their contact with the Council. The Council will ensure that the personal details about the customer and their matter will be managed and stored appropriately in line with data protection and records management policies and procedures.

Any actions that may be imposed on such a customer's contact with the Council, will be appropriate and proportionate. When a decision has been taken to apply this Policy, the Council will contact the customer to:

- detail the action we have taken and why
- explain what it means for the customer
- advise how long the restrictions will last and when the decision will be reviewed
- enclose a copy of this Policy for the customer's information.

Where the customer continues to behave in a way which is unacceptable, the Council may decide to refuse all contact with them, other than to provide any essential services. In extreme cases, involving threats or actual violence to a member of staff or visitor to our offices, a decision may be taken to ban the customer from the site or utilise other Council procedures which manages customer behaviour.

Restrictions will be tailored to deal with the individual circumstances and may include one or more of the following (the list is not exhaustive):

- Placing limits on the number and duration of contacts with staff per week or month
- Refusing the customer access to any Council building except by arrangement
- Offering a restricted time slot for telephone calls
- Limiting the customer to one method of contact (telephone, letter, email, etc)
- Requiring the customer to communicate only with one named member of staff
- Requiring any personal contacts to take place in the presence of a witness and in a suitable location
- Refusing to register and process further complaints/ requests about the same matter

- Requiring the customer to make contact by telephone only through a third party e.g. solicitor/ Councillor / friend acting on their behalf
- Limiting or regulating the customer's use of Council's services
- Informing the customer that further contact on the matter of the complaint/ request will not be acknowledged or replied to.

These options are not exhaustive and often local or other factors will be relevant in deciding what might be appropriate action. Any restrictions will take into account the customer's individual circumstances.

Review

When imposing a restriction on access, the Council will have specified a review date. Restrictions will be lifted and relationships returned to normal unless there are good grounds to extend the restrictions. The review will be undertaken at Head of Service level.

We will inform the customer of the outcome of any review. If restrictions are to continue, we will explain our reasons and state when the restrictions will next be reviewed.

Recording

There will be an audit trail of events and decisions made by staff if the Council are concerned about a customer's behaviour.

New matters, complaints or requests for information

Where a decision on an issue has been made, the Council will inform the customer that future correspondence will be read and placed on the file but not acknowledged, unless it contains new information. The Head of Service of the relevant service area will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new matter, complaint or request.

Referring cases to the Local Government Ombudsman and the Information Commissioners' Office

There may be exceptional circumstances, where the relationship between us and a customer has broken down to a point where a resolution is not possible. In these cases we may seek to close the case without completing all stages of our complaints policy, or we may expedite the case to a final stage. If this becomes necessary, we will advise the customer of the reasons for this and the options open to them.

Similarly, we may also liaise with the Local Government Ombudsman (LGO) or Information Commission (IC) and ask them to consider a case before it has exhausted our complaints/ FOI process. It will be entirely at the discretion of the LGO or IC whether or not they accept the referral.

A customer who has been treated as behaving unreasonably may make a complaint to the LGO about it. The LGO is unlikely to be critical of the organisation's action if it can show that it acted proportionately and in accordance with its adopted policy.