



# **Managing Unreasonable Customer Behaviour Policy**

**Agreed by Finance & Policy Committee 21.9.15**

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## **1. Introduction:**

Hartlepool Borough Council aims to provide high quality services that meet the needs of local people. We want to make our services as efficient and effective as possible.

We appreciate that there are areas where we could do things better and that we do not always get things right. We have a suite of policies covering corporate, adult social care, children's social care and public health so that those customers who are unhappy with our services or who have suggestions about how they could be improved can share their views with us. We will always aim to resolve complaints at the first point of contact but there are some that will need to be dealt with through the formal complaints process. On occasion customers will remain unhappy when we have concluded the formal complaints process and they then have the opportunity to approach the Local Government Ombudsman to request that they investigate their complaint.

Our elected members have a Code of Conduct wherein they are required to promote high standards of conduct and we have a process for dealing with complaints from people who believe our members have breached this code.

Wherever possible we are happy to share information about the work of our organisation and we will endeavour to comply with the Freedom of Information legislation.

## **2. Purpose:**

This policy is not intended to prevent customers from raising legitimate and important concerns, enquiries or requests or from pursuing them. We recognise that customers can act out of character at times of anxiety or distress and reasonable allowances are made for this. However, there are some individuals who act in ways that are unreasonable or unreasonably persistent or vexatious.

Hartlepool Borough Council has a duty to ensure that it provides value for money services for all of our residents and local communities. An unreasonable or unreasonably persistent customer or one that is acting in a vexatious manner can take up a disproportionate amount of time and can hinder the other work of our staff. The Council must therefore ensure that it uses its resources wisely and limits the amount of time spent on queries that it considers unreasonable or unreasonably persistent or vexatious.

We are committed to promoting equality of opportunity and diversity and to challenging discrimination. Those who work for the Council also have a right to undertake their work free from all types of discrimination, abuse and harassment. We have a duty to protect the safety and welfare of our staff and therefore will not tolerate what we consider to be unacceptable behaviour by unreasonable or unreasonably persistent or vexatious customers. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening and may include:

- Using abusive or foul language on the telephone;

- Using abusive or foul language face to face;
- Sending multiple emails about the same issue whilst the issue is being investigated or after the matter has been dealt with, and;
- Leaving multiple voicemails or making multiple calls about the same issue whilst the issue is being investigated or after the matter has been dealt with.

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

This policy is not restricted to complaints. It covers the full range of customer contact including customer requests for information and FOI requests.

In summary, the purpose of this policy is to:

- Define what we mean by unreasonable customer behaviour.
- Provide examples of what we consider to be unreasonable customer behaviour.
- Define what we mean by vexatious requests.
- Provide examples of what we consider to be vexatious requests.
- Explain the process we will follow when dealing with unreasonable customer behaviour and vexatious requests so that everyone knows what they can expect.

### **3. What is unreasonable and unreasonably persistent customer behaviour?**

We define unreasonable customer behaviour as:

“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 or requests”

Unreasonable behaviour may include one or more isolated incidents, as well as 'unreasonably persistent behaviour', which is usually a build-up of incidents or behaviour over a longer period.

The following are examples of what we consider to be unreasonable customer behaviour:

- Refusing to specify the complaint or service request, despite offers of assistance with this from the Council's staff;
- Making an unreasonable number of contacts with us, by any means, in relation to a specific service request, complaint or complaints;
- Refusing to accept that issues are not within the remit of a complaints procedure or a service request despite having been provided with information about the procedure's scope;
- Covertly recording meetings and conversations without the prior knowledge and consent of the other persons involved;

- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into by, for example, excessive telephoning or sending emails to numerous council staff, writing lengthy, complex letters every few days and expecting immediate responses;
- Submitting falsified documents from themselves or others;
- Submitting repeat complaints/service requests, after service delivery and/or complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these “new” service requests/complaints which should be put through the relevant procedure.
- Adopting a “scattergun” approach - pursuing parallel service requests/complaints on the same issues with a variety of other organisations or with a number of officers within the Council;
- The service request or complaint is unreasonable or disproportionate in the amount of time expended and those matters of complaint are considered to be unreasonable as to impose a significant burden in terms of time and cost to be expended by the Council, if such matters were pursued.
- Refusing to accept the decision and repeatedly arguing points with no new evidence
- Having insufficient or no grounds for their complaint and making the complaint only to annoy or inconvenience the Council;
- Refusing to co-operate with the complaints investigation process whilst still wishing their complaint to be resolved;
- Insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or good practice (e.g. insisting that there is no written record made of the complaint);
- Making unjustified complaints about the staff dealing with the complaints, and seeking to have them dismissed or replaced;
- Changing the basis of the complaint as the investigation proceeds and/or denying statements made at an earlier stage;
- Introducing new information not related or substantive to the original complaint but which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are fully answered;
- Where the complainant has persistently changed the substance of a complaint or raises identical or similar issues or otherwise seeks to prolong unreasonably the matters of complaint through further concerns or questions whilst the original complaint is being addressed.
- A persistence in pursuing a complaint where the local assessment and determination process has been fully and properly implemented and exhausted.
- Refusing to accept a complaints decision – repeatedly arguing the point and complaining about the decision.
- The matter of complaint can fairly be characterised as being obsessive or manifestly unreasonable through, for example, repetitive allegations.
- The matter of complaint is politically motivated and where press and other publicity has been attracted to the matter of complaint before the same have been reported to the Council’s Monitoring Officer and which the Monitoring Officer in unison with the Independent Persons reasonably believes is not in the public interest to warrant an investigation. It will also be a consideration as to whether independent evidence is likely to be obtained and the nature of seriousness of complaint which may not

- warrant any further action being taken.
- Combinations of some or all of these.

The above list is not exhaustive and merely explanatory of examples of unreasonable customer behaviour.

#### **4. 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”.

A vexatious request may include one or more 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.

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.

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 on the request itself.

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

The following are examples of what we consider to be vexatious requests:

- Submission of repeated requests with very high volume and frequency of correspondence;
- 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 our ability to provide service to others. In this situation we will also consider Section 12 (exemption where cost of compliance 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.
- Where the requester has caused or intends to cause harassment, alarm or distress to a Council employee or someone working on our behalf. This could include very high volume and frequency of correspondence, or including accusations and complaints within requests.

## **5. Equality & Diversity**

We recognise that, in some circumstances, customers may have a mental health problem and/or other disability or that English may not be their first language. In these circumstances we understand that it may be difficult for them to either express themselves or communicate clearly and/or appropriately. Where unacceptable behaviour is evidenced under these circumstances we will consider the individual needs and circumstances of the customer and our staff before deciding how best to manage the situation.

## **6. How will we deal with unreasonable customer behaviour and vexatious requests?**

There are 3 stages we will go through before designating someone as unreasonable, unreasonably persistent or vexatious:

1. We will confirm that the original complaint or request has been or is being dealt with properly and in line with the relevant policy, procedure and/or statutory guidelines and that we have made every effort to satisfy the request or resolve the issue/complaint.
2. The Assistant Director will issue a warning (by email or letter\*) to the customer requesting that they modify their behaviour.
3. If the customer does not modify their behaviour then the Assistant Director will speak to the Director to request a restriction to contact. The Director will seek advice from the Corporate Complaints Manager who will liaise with the Chief Solicitor (Monitoring Officer) and may grant the restriction to contact and may in certain cases require further action to be taken if necessary through statutory agencies – this will be tailored to the individual circumstances.

### **The options available for restricting contact include (but are not limited to):**

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for necessary calls.
- Limiting 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 the council's services e.g. libraries or leisure centres.
- Refusing the customer access to any council building except by appointment.
- Informing the customer that further contact on the matter of the complaint/request will not be acknowledged or replied to.

When the decision has been taken to classify a customer's behaviour as unreasonable or to classify a request as vexatious, the Director will write\* to the customer to:

- Detail what action we have decided to take and why;
- Explain what it means for the customer's contacts with the organisation;
- Advise how long the restrictions will last and when the decision will be reviewed (this will be a maximum of 12 months depending on the severity of the situation);
- Enclose a copy of this procedure for the customer's information.

If a customer's behaviour has been classed as unreasonable or requests are vexatious the details will be held within the Employee Protection Register for information. Details will be checked, removed or amended after each review

## **7. Review**

When any restrictions are put in place, a review date will be set. This will be for a maximum of 12 months and will be based on the circumstances of the case and the severity of the situation.

The status of a customer will be reviewed by the relevant Director with advice from the Chief Solicitor on or before the review date, and the department will write\* to the customer to inform them of the outcome of the review. Where the Director following advice from the Chief Solicitor feels the restrictions should continue, we will explain our reason and give another date for review.

A summary of the process is set out in appendix 1.

### **8.1 New complaints or requests for information**

We will not ignore service requests or complaints from customers who are classified as unreasonable or requests for information from customers who have previously submitted a vexatious request. New complaints or requests for information from people who have been classified under this policy will be treated on their merits. The Director 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 complaint or request.

### **8.2 Referring to the Local Government Ombudsman and Information Commissioners Officer**

There may be exceptional circumstances where the relationship between the Council and a customer has broken down to a point where a local 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 the final stage. If it 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 Ombudsman or Information Commission and ask them to consider the case before it has exhausted our complaints/FOI process. It will be entirely at the discretion of the Ombudsman or Information Commission whether or not they accept the referral.

### **8.3 Legal Action**

In exceptional circumstances where staff are subject to harassment which causes alarm and/or distress the Council will pursue such action that is commensurate and proportionate to the behaviour occasioning such alarm and/or distress through the initiation of a criminal prosecution or civil proceedings in order to address such behaviour.

### **8.4 Record keeping & sharing of information across the Council**

Records of decisions made through this policy will be retained by the Corporate Complaints Officer. This will include:

- The name and address of each customer who is classified as unreasonable;
- Details of each information request classified as vexatious including the name and address of the requester;
- What restrictions have been put in place;
- When any restrictions were put in place, and the review date.

When a decision to restrict contact or access has been taken the details of those restrictions will be shared with staff across the authority as appropriate.



# Appendix 1 – Process Diagram

