

CHESTERFIELD BOROUGH COUNCIL

PERSISTENT AND VEXATIOUS COMPLAINTS POLICY

1.0 Introduction

- 1.1 Council staff will inevitably come into contact with a small number of customers who complain. And, who take up an unwarranted amount of Council resources or impede the investigation of their complaint. The aim of this policy is to identify situations where the customer making the complaint could be considered vexatious or persistent and how to deal with such situations.
- 1.2 It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It must be recognised that customers may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.
- 1.3 We do not expect staff to tolerate unacceptable behaviour by 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 and
 - leaving multiple voicemails
- 1.4 The aim of this policy is to contribute to our overall aim of dealing with all corporate complaints in ways which are demonstrably consistent, fair and reasonable.
- 1.5 This policy has been drafted with reference to the Local Government Ombudsman's Guidance note on "unreasonably persistent complainants" and "unreasonable complainant behaviour". Staff should also consider other contact with the authority, such as through the Freedom of Information Act requests, when considering whether to treat a complaint under the Persistent and Vexatious Complaints Policy.

2.0 Definition of Persistent and Vexatious Customers or Complainants

- 2.1 We use the following terms in our policy:-
- Unreasonable customer or complainant behaviour.
 - Unreasonably persistent customers or complainants.
 - Vexatious complaints - without sufficient grounds, especially so as to cause annoyance or disruption.
 - In this policy, the terms "customer" and "complainant" are interchangeable.

- 2.2 For us, unreasonable customer behaviour and unreasonably persistent customers are those customers who, because of the frequency or nature of their contacts with the authority, hinder the authority's consideration of their own, or other people's complaints.
- 2.3 Vexatious complaints are those complaints made without sufficient grounds, but made especially so as to cause annoyance or disruption.
- 2.4 Features of the types of complaint and of customer behaviour that this policy covers can include the following (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):-
- Refusing to specify the grounds of a complaint despite offers of assistance.
 - Insufficient grounds or no grounds for their complaint and following the complaint through only to annoy (or for reasons that they do not admit or make obvious).
 - Refusing to co-operate with the complaints investigating process whilst still wanting their complaint to be resolved.
 - Refusing to accept that issues are not within the remit of the Council's Complaints, Comments & Compliments Policy despite having been provided with information about the procedure's scope.
 - Insisting on the complaint being dealt with in ways which are incompatible with the procedure or with good practice (for example, insisting that there should be no written record of the complaint).
 - Making what would appear to be a groundless complaint about the staff dealing with their complaint and seeking to have them replaced.
 - Making an unreasonable number of contacts with us, by any means, in relation to a specific complaint or complaints.
 - Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
 - Introducing trivial or irrelevant new information whilst the complaint is being investigated and expecting this to be taken into account and commented on.
 - Electronically recording meetings and conversations without the prior knowledge and consent of the other person involved.
 - Multiple lines of enquiry made regarding the same issue, for instance, pursuing a complaint or complaints not only with the Council, but at the same time with a Member of Parliament, other councils, elected members of this and other councils, the Council's independent auditor, the police, solicitors, and the Local Government Ombudsman.
 - Submitting repeat complaints, after the complaints procedure has been completed, essentially about the same issues, with additions/variations which the customer then insists on being treated as new complaints and put through the full complaints procedure again.
 - Refusing to accept the outcome of the complaint procedure after its conclusion, repeatedly arguing the point, complaining about the outcomes, and/or denying that an adequate response has been given.

- Harassing or verbally abusing or otherwise seeking to intimidate staff dealing with their complaint, in relation to their complaint by using foul or inappropriate language or by the use of offensive and racist language.
 - Making persistent and unreasonable demands or expectations of staff and/or the complaints procedure after the unreasonableness has been explained to the customer (an example of this could be a customer who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails).
- 2.5 If you feel that the inappropriate behaviour displayed is for a reason related to a disability, or because the person's first language is not English, please contact the Policy Unit for advice and assistance to manage the complaint in accordance with the relevant Council policy.
- 3.0 **Managing Contact**
- 3.1 **Investigate the complaint:** We must ensure that the complaint is being, or has been, investigated properly in accordance with the complaints, comments and compliments procedure.
- 3.2 **Issue a warning:** The Head of Service will consult with the Head of Business Transformation before issuing a warning to the customer. The Head of Service will contact the customer by phone, in writing or by email to explain why this behaviour is causing concern, and to ask them to change this behaviour. The Head of Service will explain the actions that the Council may take if the behaviour does not change. The following considerations need to be taken into account:-
- Warn the customer about what their behaviour may lead to.
 - Restrictions that may be applied by manager or Head of Service.
 - Apply restrictions in a way that will allow completion of complaints procedure.
 - Time limits on restrictions.
 - Informing the customer of the decision.
 - Right of appeal to the Local Government Ombudsman
- 3.3 If the disruptive behaviour continues, a reminder letter (on behalf of the Head of Business Transformation) will be issued to the customer advising them that the way in which they will be allowed to contact us in future will be restricted. The Head of Business Transformation will make this decision and inform the customer in writing of what procedures have been put in place and for what period.
- 3.4 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we 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.
- 3.5 **Apply an appropriate restriction:** Any restriction that is imposed on the customer's contact with us will be appropriate and proportionate and the customer 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.

3.6 Restrictions will be tailored to deal with the individual circumstances of the customer and may include:-

- why we have taken the decision
- what action we are taking
- the duration of that action
- the review process of this policy and
- the right of the customer to contact the Local Government Ombudsman about the fact that they have been treated as a vexatious/persistent customer whilst making complaints

3.7 **Where a breakdown in communications occurs:** In some cases, relations between councils and unreasonably persistent or vexatious customers break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs, the Ombudsman may be prepared to consider a complaint before the procedure has run its course.

4.0 **Recording and Reviewing Decisions**

4.1 Adequate records will be retained by the Head of Business Transformation and shared with appropriate service managers. Records must include the details of the case and the action that has been taken. The Head of Business Transformation will retain a record of:-

- the name and address of each customer who is treated as abusive, vexatious or persistent
- the period that the restriction covers, or is in force for
- what the restrictions are and
- when the customer and appropriate departments were advised

4.2 The Standards & Audit Committee will be provided with an annual report giving information about customers who have been treated as vexatious/persistent under this policy.

4.3 The status of a customer judged to be unreasonably persistent or vexatious will be reviewed by the Head of Business Transformation after three months and at the end of every subsequent three months within the period during which the policy is to apply.

4.4 The customer will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.