



# UNREASONABLE, PERSISTENT AND VEXATIOUS COMMUNICATION & COMPLAINTS (UPVC) POLICY & PROCEDURE



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## Document history

Date	Version	Author	Changes made
1 February 2023	1	Lynn Smith	Policy updated/refreshed upon introduction of new Portfolio Holder and Strategic Director.

Name	Role/Title	Date
Bob Watson	Strategic Direction Finance & Customer Service	1 February 2023
N/A	Corporate Management Team	7 February 2023 25 April 2023
N/A	Joint Staff Consultative Group	March 2023
N/A	Executive	June 2023

## 1. Introduction

- 1.1 Surrey Heath Borough Council aims to provide high quality services to all of our customers. However, when service delivery falls short of this standard, we will deal with those who have a complaint, honestly and impartially, through the Council's Complaints Procedure.
- 1.2 Dealing with correspondence or a complaint is generally a straightforward process. The general presumption should be that a complaint is made in good faith. In a small number of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the Council. This can happen either while their communication/complaint is being investigated, or once the Council has finished dealing with the matter.



1.3 Definition of unreasonably persistent or vexatious communication or complaints.

*The definition of communication is the imparting or exchanging of information by speaking, writing, or using another medium. To successfully convey information or share ideas and feelings.*

*Unreasonable and unreasonably persistent complaints are those complainants who because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their or other people's complaints.*

*A vexatious complaint is one that is pursued, regardless of its merits; solely or primarily to harass, annoy or subdue somebody; something that is unreasonable, without foundation, frivolous, repetitive, burdensome or unwarranted.*

1.4 If the complainant is persisting because their complaint[s] have not been considered in full then the Council must address this (normally by invoking the next stage of the complaints procedure).

1.5 However, if the Council has considered the matter fully and has demonstrated this to the complainant, then we need to consider whether the complainant or correspondence is now unreasonable, persistent, or vexatious.

1.6 The decision to declare a complainant vexatious will be taken by the statutory officers of the Council (Head of Paid Service, Monitoring Officer and the Section 151 Officer). Ideally all three will be part of the process, however if necessary only two out of the three can make the decision. This decision will be communicated to the individual by the either the Monitoring Officer or Strategic Director Finance and Customer Services explaining what the declaration of vexatious means and the reasons for them being declared vexatious. Where necessary the Executive and Ward Councillors will be notified.

## 2. Scope

2.1 This policy applies to all members of staff, (including fixed term, agency staff and volunteers or work experience students), partners and



contractors, who receive communication or complaints that they consider to be subject to this policy.

- 2.2 If a complaint relates to a service that has been provided by a third party. The complaints arrangements of that organisation will take precedence.

### 3. Principle and Aims

- 3.1 A priority with the Council's Five Year Strategy, is to strive to become an Effective and Responsive Council, with Customer Service at the heart of everything we do. Maintaining an open and transparent approach. Surrey Heath Borough Council is committed to dealing with all communication and complaints equitably, comprehensively and in a timely manner. It does not normally limit the contact which customers have with Council staff and offices.
- 3.2 The purpose of the Unreasonably Persistent and Vexatious Communication and Complaints Policy and Procedure is to provide the authority with a fully transparent framework which helps the Council to ensure that, unreasonable, persistent, or vexatious communication and or complaints are dealt with fairly and proportionately. These actions can occur either while a complaint or complainant enquiry is being investigated, or once Surrey Heath Borough Council has completed the investigation.
- 3.3 It sets out clearly for staff and customers what is expected of them, what they can do, and who is responsible for implementing the actions within this Policy and Procedure. This policy aims to identify a clear allocation of responsibility for reporting and dealing with incidences of unreasonable, persistent or vexatious communication, complaints, or behaviour.



## 4. Policy Statement

- 4.1 Surrey Heath is committed to dealing with all communication and or complaints fairly and impartially, and to making our services as accessible as possible.
- 4.2 Unreasonably persistent complainants or vexatious complainants may have justified complaints or grievances but are pursuing them in inappropriate ways. Alternatively, they may be intent on pursuing complaints which appear to have no substance, or which have already been investigated and settled. Their contacts with the Council may be amicable but still place very heavy demands on staff time, or they may be distressing for any or all officers involved.
- 4.3 Persistent and or vexatious complainants frequently communicate across multiple officers and departments. Causing duplication, digression and creating opportunity for error. Which in turn gives an opening for further cause for complaint.
- 4.4 Unreasonably persistent communication is frequently repetitive in nature. Continual phone calls, letters, or emails. Repeatedly changing the substance of the request or enquiry. Demanding responses from senior staff.
- 4.5 The communication may well be on matters for which the Council does not have responsibility and communication which contains false or misleading information.
- 4.6 A vexatious complainant is a complainant who is pursuing a complaint which is entirely without merit and is made with the intention of causing inconvenience, harassment or expense to the Council or employees.



## 5. Actions and Behaviours

- 5.1 'Unreasonable behaviour' may include one or two isolated incidents, as well as 'Unreasonably persistent behaviour'.
- 5.2 Persistent communication and/or complaints, may have merit, but, because of the frequency or nature of their contact with the Council, hinder consideration of their own or other's concerns or complaints, or require a disproportionate level of resources or time to handle the issues raised.
- 5.3 Below are some of the actions and behaviours of unreasonably persistent communicators/complainants and vexatious complainants which the Council may experience. This policy may be invoked if one or more of the following triggers occur and depending on the individual merit of the case. This list is not exhaustive and one single feature on its own will not necessarily imply that a person or that the persons communication will be considered persistent and/or vexatious.

- Refusing to specify the grounds of a complaint, despite offers of help
- Refusing to co-operate with the council's complaints investigation process
- Making unjustified or groundless complaints about the staff dealing with the issues
- Changing the basis of a complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage
- Introducing trivial or irrelevant new information which the complainant expects to be considered and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered



- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved
- Persistently approaching the Council through different routes about the same issue and pursuing different officers with the same or similar complaint
- Refusing to accept that issues are not within the remit of the complaints procedure despite having been provided with information about the procedure's scope
- Refusing to accept that issues are not within the power of the Council to investigate, change or influence (examples could be the responsibility of another organisation)
- Insisting on the complaint being dealt with in ways which are incompatible with the Council's procedure or with good practice
- Submitting repeat complaints after the complaints process has been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints' procedure
- Submitting falsified documents from themselves or others
- Pursuing correspondence or a complaint on the same issue with various departments across the Council, for example the Chief Executive, an M.P, Councillor and/or the Local Government Ombudsman (at the incorrect juncture)
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being investigated, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses
- Submitting repeat complaints with minor additions/variations that the complainant insists make these 'new' complaints



- Refusing to accept the decision, repeatedly arguing the point with no new evidence
  - Using abusive, offensive, or threatening language, which may include deliberate mis-spelling of offensive words or terms to thinly disguise the intended word
- 5.4 Some individuals that staff may consider to be in persistent communication, or vexatious or persistent complainants may be behaving as such because of a specific circumstance or difficulty such as a mental health problem.
- 5.5 Where this is indicated, any concerns that staff may have about a customer's vulnerability must be raised immediately with the Strategic Director or Head of Service in line with any policies relating to this. If the complainant has special needs, an advocate might be helpful to both parties.

## 6. Being Reasonable

- 6.1 Raising legitimate queries or criticisms of the Complaints Procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or being unreasonably persistent.
- 6.2 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it, within the recognised complaints procedure should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.
- 6.3 The Council will offer the complainant appropriate support, as it would any other customer.
- 6.4 It may be helpful to both parties if the complainant has an advocate. If the complainant feels that they would like an advocate, the Council must consider offering to help find an independent one. If the complainant has specific needs, the Council will offer relevant support. Specialist bodies





such as the Royal National Institute for the Blind and Age Concern can provide help and advice

## 7. Action Prior to invoking the Policy

- 7.1 When considering the application of this policy, it is critical that we consider and ensure we understand a complainant's circumstance, how and why they feel as they do and what it is that would resolve the matter for them. We must be sure that we have given them the right opportunity to express their views and opinions and ensure we have listened and given appropriate and proportionate thought and effort to resolving and explaining the position and our actions.

When it is necessary to designate the complainant as behaving unreasonably, consider using the following steps:

- Offer the complainant, a meeting with an officer of appropriate seniority, in person or virtually, to explore scope for a resolution of the complaint and explain why their current behaviour is seen as unreasonable
- Remind the complainant of their right to discuss the matter with their local Councillor
- Share our policy with the complainant and advise them that restrictive actions may need to be applied if their behaviour continues
- Set up a strategy meeting to agree a cross-service approach appointing a key officer to coordinate the organisation's response
- Help the complainant to find a suitable independent advocate, especially if the complainant has different needs

The Council must ensure that:



- The complaint is being or has been investigated properly and fairly
- Communications with the complainant have been adequate
- The complainant is not now providing any significant new information that might affect our view on the complaint
- The Council has exhausted all possible options to find an alternative solution

7.2 The Council will contact the complainant to:

- Discuss his or her behaviour;
- Explain why this behaviour is causing the Council concern
- Ask him or her to change this behaviour
- Explain about the actions that the Council may take if his or her behaviour does not change.

## 8. The Decision

- 8.1 The decision to declare a complainant as being in persistent communication and/or unreasonably persistent and/or vexatious will be an exceptional step, and should be signed-off by one or more of the statutory officers of the Council: Chief Executive (Head of Paid Service), Head of Legal and Democratic Services (Monitoring Officer) and/or the Strategic Director for Finance and Customer Services (Chief Finance Officer/Section 151 Officer) following consultation with all of the officers involved. A full record of the considerations and decisions must be maintained and a register of those declared 'vexatious' updated.
- 8.2 If a decision is taken to apply restricted access, write to the complainant with a copy of the policy to explain:



- Why we believe their behaviour falls into that category
- Why the decision has been taken
- What action we are taking
- The duration of that action
- What it means for his or her contacts with the organisation
- How long any limits will last.

8.3 The precise nature of the action should be appropriate and proportionate to nature and frequency of the complainant's contacts with the Council at that time.

The following is a list of possible options:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
- Limiting the complainant to one medium of contact (telephone, letter, email etc.) and/or requiring the complainant to communicate only with one named member of staff
- Requiring any personal contacts to take place in the presence of a witness
- If a meeting is outside of Council property and a member of the public insists on recording the meeting, the officer, can if they wish, terminate the meeting and arrange for it to be within Surrey Heath premises, where the officer can also record the meeting. If the person cannot attend Surrey Heath premises the meeting can be held elsewhere but a colleague should also attend, and the meeting be recorded. The rearranged meeting should be for a mutually acceptable date and time



- Refusing to register and process further complaints about the same matter
  - Banning a complainant from one or more Council premises, or by restricting to appointment only
  - Where a decision on the complaint has been made, informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence
  - Emails/letters or any other communication method to anyone other than appropriate point of contact will be deleted and not responded to
  - Where a complaint is closed and the complainant persists in communicating about the same issue, it may be decided to terminate contact with that complainant.
- 8.4 When complaints about new issues are made, these should be treated on their merits. You should consider whether any restrictions previously applied are still appropriate and necessary.
- 8.5 These options are not exhaustive and there may be other factors that will be relevant in deciding what might be appropriate action. For instance, any arrangements for limiting a complainant's contact must take account of the complainant's individual circumstances, bearing in mind such issues as age, disability, gender, race and religion or belief.
- 8.6 Where the behaviour is so extreme that 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 warning of that action.



## 9. Procedures

- 9.1 The decision to temporarily restrict or stop a complainant's access to the Council's offices and officers can only be taken By the Customer Relations Manager or Service Manager in consultation with the appropriate Strategic Director/ Head of Service. Giving clearly documented evidence to support this and outlining how the behaviour needs to change.
- 9.2 The Service Manager will send a letter to the complainant, outlining the discussion which has taken place with the Strategic Director/ Head of Service along with a copy of this policy and procedure. The letter will clearly explain to the customer the actions that the Council may take if their behaviour does not change.
- 9.3 If the behaviour continues, the Service Manager, in consultation with any of the statutory officers will make a decision to make the action more permanent and in accordance with paragraph 8.1. A letter will then be sent to the complainant outlining this decision. All letters will include:
  - why we have taken the decision we have
  - the right of the complainant to appeal to the Local Government and Social Care Ombudsman about the fact that they have been treated as a vexatious or persistent complainant.

## 10. Record Keeping

- 10.1 Detailed records of all contacts with unreasonable persistent and vexatious complainants must be kept. Information should only be shared with staff who need this information to carry out their role at work.



- 10.2 Personal details about the complainant and about the complaint will be managed and stored appropriately in line with the Data Protection Act and records management principles and procedures.
- 10.3 When unreasonable complainants make complaints about new issues, these should be treated on their merits and decisions should be taken on whether any restrictions that have been applied before are still appropriate and necessary.
- 10.4 The decision made, and letters sent will be logged on the Council's complaint system and administered within the Contact Centre.
- 10.5 The complaints team will keep a record of all customers who have had this policy applied to them. The record will be kept in Box and shared with the appropriate managers whose departments who have contact with the public.
- 10.6 Adequate records will be kept showing:
- When a decision is taken not to apply the policy when a member of staff asks for this to be done, or
  - When a decision is taken to make an exception once it has been applied, or
  - When a decision is taken not to put a further complaint from this complainant through the complaint's procedure for any reason and
  - When complaints about new issues are made, these should be treated on their merits. Officers should consider whether any restrictions previously applied are still appropriate and necessary.
- 10.7 Records will be retained for a period of three years in line with the Retentions Policy.

## 11. Reviewing decisions to restrict access

- 11.1 Access may be restricted for up to 12 months. Following completion of the restricted access time period, a review will be undertaken by the Statutory officers and Customer Relation Manager. A record will be



kept of the review decision. Limits should be lifted, and relationships returned to normal.

- 11.2 The period may be extended if the complainant has not observed the terms and conditions restricting access. After restrictions are lifted a new period of restrictions could be imposed if the complainant continues to complain or communicate similarly.
- 11.3 If limits are to continue, the complaint must be advised accordingly and given an explanation of the reasons and it must be stated when the limits will next be reviewed.

## 12. Link with other policies and procedures

- 12.1 This policy should be read in association with the Council's policies on Complaints, Health and Safety, Equalities and Policy on the Management of unreasonable and violent customer behaviour.

## 13. Harassment and bullying

- 13.1 Persistent and vexatious complainant behaviour may amount to bullying or harassment. All Council workers have the right to be treated with respect and dignity in the workplace. Behaviour by third parties that bullies, harasses or intimidates Council staff is unacceptable and will not be tolerated. The Council will take all reasonable steps to prevent such behaviour.

## 14. Contact information

- 14.1 For more help or information, the customer service team can be contacted at:  
Email: [contactcentre@surreyheath.gov.uk](mailto:contactcentre@surreyheath.gov.uk)  
Telephone: 01276 707100



14.2 Contact details for the LGO are as follows:

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

Address:

Local Government and Social Care Ombudsman

PO Box 4771

Coventry

CV4 0EH

## 15. Equality Assessment

15.1 Vexatious and Persistent Complaints Policy & Procedure.

This policy, procedures and related guidelines has been impact assessed by the Equality Action Group.

