



Surrey Heath Borough Council

Vexatious and Persistent Complaints Policy & Procedure

Guidance for Staff and Managers



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Document history

Date	Version	Author	Changes made
23/03/2018	Version 2	Joe Fullbrook	Revision of old version
30/10/2018	Version 2.1	Geraldine Sharman	
06/02/2019	Version 2.2	Geraldine Sharman	Suggestions from CMT
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Approvals

Name	Role/Title	Date
Joint Staff		December 2018
Corporate Management Team		26 th February 2019

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, fairly honestly and impartially, through the Council's Complaints Procedure.
- 1.2 A very small minority of customers who make or pursue complaints do so in a persistent or vexatious way which can either slow down the investigation of their complaint or be so time consuming to manage that the behaviour interferes with proper consideration of the complaint.

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.

3 Principle and Aims

- 3.1 The purpose of the Vexatious and Persistent Complaints Policy and Procedure is to provide an authority wide fully transparent framework which helps the Council to ensure unreasonable and unreasonably persistent or vexatious complainants are dealt with fairly and proportionately. These actions can occur either while a complaint is being investigated, or once Surrey Heath Borough Council has finished the investigation.
- 3.2 It sets out clearly for staff and complainants what is expected of them, what they can do, and who can authorise actions. This policy aims to identify a

clear allocation of responsibility for reporting and dealing with incidences of persistent, vexatious or unreasonably persistent behaviour.

4 Policy Statement

- 4.1 Surrey Heath is committed to dealing with all complaints fairly and impartially, and to making our services as accessible as possible.

5 Definition of Vexatious and Persistent complaints

- 5.1 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.
- 5.2 'Unreasonable complaint behaviour' may include one or two isolated incidents, as well as 'unreasonably persistent behaviour'. Persistent complaints, specifically 'Unreasonably Persistent' are complaints which have merit, but, because of the frequency or nature of their contact with complaints handlers, hinder consideration of their own or other's complaints, or require a disproportionate level of resources or time to handle the complaints raised.
- 5.3 For a more detailed definition of the above please refer to the section called Definition in [Local Government Ombudsman Guidance on managing unreasonable complaint behaviour](#)

6 Examples of Unacceptable Complaint Behaviour

- 6.1 The following list draws upon the Local Government and Social Care Ombudsman guidance, and provides examples of behaviour by complainants, which may be described as persistent, vexatious or unreasonable.
- refusing to specify the grounds of a complaint, despite offers of help
 - refusing to co-operate with the council's complaints investigation process
 - refusing to accept that certain issues are not within the scope of the Complaints Procedure (e.g. Parking Ticket Appeals)
 - insisting on the complaint being dealt with in ways which are incompatible with the Corporate Procedure or with good practice
 - making unjustified complaints about staff who are trying to deal with issues, and seeking to have them replaced
 - changing the basis of the complaint as the investigation proceeds
 - denying or changing statements he or she made at an earlier stage
 - introducing trivial or irrelevant new information at a later stage
 - raising many, detailed but unimportant questions; insisting they are all answered
 - submitting falsified documents from themselves or others
 - adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various departments and other organisations

- making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous Council staff/Councillors, or detailed 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

6.2 Some individuals that staff may consider to be vexatious or persistent complainants may be behaving as such because of a specific circumstance or difficulty such as mental health problem.

6.3 Where this is indicated, any concerns that staff may have about a customer's vulnerability must be raised immediately with the Executive 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.

7 Action Prior to invoking the Policy

7.1 When considering the application of this policy, it is critical that we firstly consider and ensure we understand a customer'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:

- offering the complainant a meeting with an officer of appropriate seniority to explore scope for a resolution of the complaint and explain why their current behaviour is seen as unreasonable
- sharing our policy with the complainant and advising them that restrictive actions may need to be applied if their behaviour continues
- setting up a strategy meeting to agree a cross-departmental approach
- appointing a key officer to coordinate the organisation's response
- helping the complainant to find a suitable independent advocate, especially if the complainant has different needs

You 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.

8 Operating the Policy

8.1 Based on the circumstances and behaviour of the customer and their complaint, restrictive actions will be tailored accordingly. If a decision is taken to apply restricted access, write to the complainant with a copy of the policy to explain:

- why the decision has been taken
- what it means for his or her contacts with the organisation
- how long any limits will last, and what the complainant can do to have the decision reviewed.

8.2 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.

8.3 Options for Action

Any actions taken should be proportionate to the nature and frequency of the complainant's current contacts. The following options may be suitable, taking the complainant's behaviour and circumstances into account. The objective is to manage the complainant's unreasonable behaviour in such a way that their complaint can be concluded quickly, without further distractions. Options included:

- placing limits on the number and duration of contacts with staff per week or month
- requesting contact in a particular form only (e.g. letters only);
- placing restrictions on telephone calls to specific times and days of the week
- where relationships have broken down, requesting that the customer uses an appropriate advocate to act and contact the Council on their behalf
- banning the complainant from visiting any council building except by appointment;
- requiring contact to take place with one named member of staff only;
- requiring any face to face contact to take place in the presence of an appropriate witness; and
- 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.
- emails/letters or any other communication method to anyone other than appropriate point of contact will be deleted and not responded to
- refusing to register and process further complaints about the same matter
- if the person insists on recording a meeting, Surrey Heath staff should also record the meeting. Recording equipment is available

- if the 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 re-arranged meeting should be for a mutually acceptable date and time.

9 Procedures

- 9.1 The decision to restrict or stop a customer's access to the Council's offices and officers can only be taken by Customer Relations Manager or Service Manager in consultation with the appropriate Executive Head of Service. Giving clear documented evidence to support this and outlining how the behaviour needs to change.
- 9.2 The Service Manager will send a letter to the customer, outlining the discussion which has taken place with the Executive 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 Customer Relations Manager or Service Manager, in consultation with the Executive Head of Service, will make a decision as to the action to take. A letter will then be sent to the customer outlining this decision. All letters will include:
- why we have taken the decision we have
 - the right of the customer 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 The decision made and letters sent will be logged on the Council's complaint system and administered within the Contact Centre.
- 10.2 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.
- 10.3 Adequate records will be kept to show:
- 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 our complaints procedure for any reason and

- when a decision is taken not to respond to further correspondence, make sure any further letters, faxes or emails from the complainant are checked to pick up any significant new information.

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.

10.4 Records will be retained for a period of three years in line with the Retentions Policy.

11 Reviews

11.1 All customers have the right of review and this will be set out in any decision letter. All reviews will be considered by the nominated Executive Head of Service.

11.2 A Customer may seek a review of the decision. Request for a Review must be made in writing, including by email, within two weeks of the date of receipt of notification of the decision made under the policy. The Review must be made to the nominated Executive Head of Service, not involved in the original decision making process.

11.3 The Executive Head of Service will respond to the customer within 10 working days of receipt of the request for a review.

12 Reviewing decisions to restrict access

12.1 When imposing a restriction on access, there will be a six month review carried out by the Executive Head of Corporate and the Head of Legal Services and a record kept of the review decision. Limits should be lifted and relationships returned to normal unless there are good grounds to extend them.

12.2 You should tell the complainant of the outcome of the review. If limits are to continue, explain the reasons and state when the limits will next be reviewed.

13 Link with other policies and procedures

13.1 The 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.

14 Harassment and bullying

14.1 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. Staff will be protected from victimisation after raising genuine complaints, whatever the outcome.

15 Contact information

15.1 For more help or information, customers and staff can contact the customer service team:

Email: contactcentre@surreyheath.gov.uk

Telephone: 01276 707100

15.2 Contact details for the LGO are as follows:

Website: www.lgo.org.uk

Address:

Local Government and Social Care Ombudsman

PO Box 4771

Coventry

CV4 0EH

16. Equality Assessment

16.1 Vexatious and Persistent Complaints Policy & Procedure.

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