

Unreasonably Persistent and Vexatious Customers Procedure

Shropshire Council



1. Introduction

The Council is committed to ensuring that it provides a quality and efficient service to every customer. However, there are rare instances where a customer unreasonably takes up a disproportionately large amount of Council resources. This can lead to a detrimental effect on the ability of the Council to provide a satisfactory level of service to its other customers.

This procedure establishes what is considered to be unacceptable levels of contact with the Council and how instances of unreasonably persistent or vexatious contact can, and should, be handled.

The Procedure must NOT be used to impede the ability of a customer to have reasonable access to services provided. To do otherwise would be to risk legitimate concerns about denying equality of opportunity to all of our customers. For example, a customer must not be considered for classification under this procedure just for asking what a service area might regard as difficult questions.

It is also crucial that this procedure should not be used to prevent the delivery of services to customers classified as unreasonably persistent or vexatious; it is better described as a mechanism for regulating their contact with the Council.

The Council recognises that it is important to distinguish between people who make a number of complaints because they genuinely believe things have gone wrong, and people who are seeking to cause some disruption. We acknowledge that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of their case as well as the manner in which they go about their complaint.

Similarly, even though someone may have displayed unreasonably persistent or vexatious behaviour in the past, it cannot be assumed that their next request or complaint will lead to the same behaviours. This policy should only be applied in limited and exceptional circumstances and for clearly identified periods of time. New service requests from individuals who have been classified as unreasonably persistent or vexatious will be treated on their own merit.

2. Definitions of unreasonably persistent and vexatious behaviour and customers

A customer can be an individual who receives any service from the Council, in any form.

Unreasonably persistent and vexatious customers are those individuals who, because of the nature or frequency of their contacts with the Council, hinder our ability to effectively deliver services to our customers. Some examples of behaviour and actions taken by these individuals are listed below; though it is important to note that this is not an exhaustive list.

The term “vexatious” may be used to describe someone who raises a complaint/s in order to cause annoyance/disruption and unnecessarily aggravate Council staff members rather than seeking to raise or resolve a grievance. This may involve making serial complaints about different matters or continuing to raise the same or similar matters repeatedly. Their method and frequency of contact with the Council can hinder the efficient consideration of their complaints and the ability of officers to provide a

satisfactory outcome. Some individuals may also display threatening and abusive behaviour or harassment when contacting the Council.

An “unreasonably persistent” customer is usually someone who makes frequent contact, often on the same, or very similar, matters. This could be regardless of whether their complaint or concerns have been dealt with. ‘

However, some individuals that staff may consider to be vexatious or persistent complainants may be behaving because of a specific circumstance or difficulty which may be within one of the nine Protected Characteristic groupings as defined by the Equality Act 2010, such as Disability. This in itself is a broad grouping encompassing visual disability, hearing impairments, visible physical disability, or hidden disabilities such as mental ill health and neurodiverse conditions such as autism. Individuals may also present with additional vulnerabilities given the intersectionality of these groupings.

Where this is indicated as a potential reason for the behaviour exhibited, any concerns that staff may have about a customer’s vulnerability must be raised immediately with the Head of Service in line with any policies relating to this vulnerability. If the complainant has what may be a range of particular needs, an advocate might be helpful to both parties. Based on the circumstances and behaviour of the customer and their complaint, restrictive actions will be tailored accordingly.

In addition, staff must be satisfied before taking any action as defined by this policy that the complainant’s individual circumstances have been taken into account including having due regard to impacts in line with the nine protected characteristics. These are: Age, Disability; Gender Reassignment; Marriage and Civil Partnership; Pregnancy and Maternity; Race; Religion or Belief; Sex; and Sexual Orientation.

3. Actions and behaviours of unreasonably persistent and vexatious customers

These are some of the actions and behaviours which teams or officers often find problematic. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper handling of the issues raised and may also affect delivery of services to our customers.

Below are examples of behaviours that are considered vexatious or unreasonably persistent:

- Refusing to specify the grounds of the service request, despite offers of assistance;
- Refusing to co-operate with the process for handling service requests;
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- Refusing to accept that certain issues are not within the scope of a particular team or within the power of the Council to investigate, change or influence despite having been provided with information about the scope of the policy and procedure (for example a planning appeal or civil dispute);
- Making numerous, repetitious and unreasonable contact because an individual is unable or unwilling to accept or agree with a policy decision or approach which

has been adopted by the Council or individual services and functions despite this being fully explained to the customer;

- Insisting on the complaint being dealt with in ways which are incompatible with the corporate complaints policy and procedure or with good practice;
- Complaining about or challenging an issue based on a historic and/or irreversible decision or incident;
- Making an unreasonable number of contacts with the Council, by any means, in relation to a specific complaint or complaints;
- Persistently approaching the Council through different routes about the same issue;
- Changing the basis of the service request as the issue proceeds;
- Denying or changing statements made at an earlier stage of the complaints or service process;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Introducing trivial or irrelevant new information at a later stage in the complaints process;
- Raising numerous, detailed but unimportant questions and insisting they are all answered;
- Making the same complaint repeatedly, perhaps with minor differences, after the complaint procedure has been concluded and insisting that the minor differences makes these into 'new' complaints which should be put through the complaint procedure;
- Refusing to accept the decision or outcome; repeatedly arguing points with no new evidence, complaining about the outcome and/or denying that an adequate response has been given (this may include refusing to use the next stage of the complaints process);
- Adopting a 'scatter gun' approach: inappropriately pursuing parallel service requests on the same issue with a variety of organisations or with a variety of teams within the Council;
- Making excessive demands on the time and resources of staff with lengthy phone calls, e-mails to numerous council staff or detailed letters every few days, and expecting immediate responses;
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced;
- Adopting a violent, aggressive or threatening demeanour towards staff.
- Sending in repeated emails which contain foul language and are derogatory towards staff with intent to cause harm or fear.
- Combinations of some, or all of, the above behaviours.

Some individuals that staff may consider to be vexatious or persistent complainants may be behaving as such because of a specific circumstance or difficulty e.g. mental health, behavioural disorders or neurodiverse conditions including autism.

Where this is indicated as a potential scenario any concerns that staff may have about a customer's vulnerability must be raised immediately with the Head of Service in line

with any policies relating to this. If the complainant has what may be a range of particular needs, an advocate might be helpful to both parties.

In applying this procedure consideration will be given to obligations under the Equality Act 2010 and it will be considered whether the application of the procedure may have an unfavourable impact on an individual, whether any impact is proportionate to a legitimate aim and whether reasonable adjustments can be made to allow the individual to engage with the Council in an appropriate way. Based on the circumstances and behaviour of the customer and their complaint, restrictive actions will be tailored accordingly.

Verbal contact

Staff members are not expected to tolerate verbal abuse or excessive volumes of contact either over the telephone or face-to-face. If an individual is abusive or excessively persistent either over the telephone or face-to-face, staff should advise them that they are not prepared to continue with the call or appointment if the abuse continues.

If the individual continues to be abusive, in person, or to make repeated telephone calls without giving staff adequate opportunity to respond to their concerns, staff should state "I am ending this call" or an appointment/interview should be terminated and the individual asked to leave. It is recommended that a note is recorded of all incidents, detailing what happened and the action taken with relevant details (e.g. location, date, time, witnesses).

Written contact

Staff members do not have to tolerate abusive and / or excessively voluminous emails, letters or social media contacts when processing complaints or enquiries, or in general. Evidence of written contact will be collected in the application of this procedure.

4. Operating the procedure

- Any of the above behaviours may trigger the beginning of this procedure.
- Prior to taking any action the Customer Feedback (complaints) officers should be contacted. Templates and checks can be undertaken to support the application of the process.
- Prior to application of the procedure it is crucial that the service area have fully applied the appropriate Council complaints procedure or have evidence of the number of contacts made and responses provided, and it is clear that customers behaviour or actions fall within the definition set out at section 3.
- **NB. It may not be appropriate to apply this procedure when a reasonable complaint has not been investigated or if there is an open complaint investigation (unless the customer's behaviour is such as to cause distress or harm to staff).**
- As part of the assessment the following considerations should be applied:
 - Previous enquiries, complaints, questions have been, properly investigated and responded to;
 - Any decision reached in regard to previous cases/issues/complaints was an appropriate one;

- Communications with the individual have hitherto been adequate and appropriate;
 - The complainant or correspondent is not raising a substantially new matter, or providing additional evidence in relation to an ongoing matter, and
 - The customer continues to have a way to exercise their right to complain (that may include approaching the Local Government and Social Care Ombudsman).
 - A means of accessing Council services and raising other enquiries is maintained (Human Rights are maintained).
 - All known equality and health needs have been considered and any reasonable adjustments made (expert advice may be obtained where necessary).
- The Head of Service, Assistant Director or Executive Director, as appropriate, for the service affected will be responsible for making the decision that a customer is considered vexatious or unreasonably persistent. It can be good practice to seek the views of a colleague from a different department, particularly when issues are complex and a more independent or different viewpoint could assist in the decision making process.
- Once the decision has been made a warning letter will be sent to the customer advising them that their issues have been fully addressed and any future contact on the same issue will be dealt with under the unreasonably persistent and vexatious procedure by limiting the customer's contact (see section 5). In extreme or rapidly escalating cases, it may be necessary to immediately impose restrictions to ensure the safety of staff members without issuing a warning letter. This is a decision which will be taken by either the Service Manager, Head of Service, Assistant Director or Executive Director. Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Council's staff, other options will be considered; for example, reporting the matter to the Police or taking legal action.
- If the warning letter does not result in changes to behaviour a second letter to confirm the application of the procedure will be issued.
- A review will be undertaken (see review section below) following the application of the procedure. A decision will be taken, using available evidence, concerning whether the restrictions should be lifted or continued.
- Any new complaints will be considered on their own merits. However, if new complaints relate to the same or similar issues previously responded to, it may not be appropriate to investigate these issues further (please see relevant complaints procedure for further details).
- The Unreasonably Persistent and Vexatious Customers Procedure is applied in a way that is appropriate on a case by case basis and in line with other policies and procedures (for example, information is shared in line with the General Data Protection Regulation (GDPR) and Shropshire Council's information governance standards).

5. Restricting Contact

Any restrictions will be agreed by the relevant Head of Service, Assistant Director or Executive Director, as appropriate, and will be appropriate and proportionate to the nature of the customer's contacts with the Council at that time. Restrictions may range from 6-12 months duration, as appropriate. The following is a summary of the types of restriction which may be used:

- 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 customer to one medium of contact (telephone, letter, etc.);
- Requiring the customer to communicate only with a named employee;
- Requiring any personal contacts to take place in the presence of a witness;
- Refusing to register and process further complaints providing the customer with acknowledgements only of further letters or e-mails received after a particular point;
- Banning a customer from some or all of the Council's premises;
- Requesting that the customer enters into a contact agreement for their future contact with the Council;
- Where relationships have broken down, requesting that the customer uses an appropriate advocate to act and contact the Council on their behalf;
- Involving the police in cases where we believe the customer has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened, or where the customer refuses repeated requests to leave council premises;
- 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.
- If more than one service is being contacted by an unreasonably persistent complainant, the Council will consider a strategy meeting to agree a cross-service approach; and, where appropriate, designating one officer to coordinate future Council responses to the complainant.
- In some circumstances, the Council may decide that it is appropriate to severely reduce or completely stop responding to a customer. For example, if staff feel concerned for their safety. The customer will be advised in writing if this is the case.

6. Notification of Unreasonably Persistent/Vexatious Decision

Once the decision has been made a notification letter will be sent from the Head of Service, Assistant Director or Executive Director, as appropriate, of the service area to the customer outlining who in the Council will be informed of the restrictions and detailing below reasons/actions;

- Why the decision has been taken;
- How the customer's behaviour needs to change;
- What action will be taken if the behaviour does not change;
- The duration of that action;
- Officer/Service area aware of the restrictions;
- The date of review for the action, if required;
- The right of the customer to contact the Local Government and Social Care Ombudsman about the application of this procedure.

7. The service areas to be informed of instances where this procedure is invoked are:

- The Complaints Officer, who keep records of all instances of classification of unreasonably persistent or vexatious customers (UP&V Register). Evidence of unreasonably persistent or vexatious behaviour and copies of all letters should be sent to the Customer Feedback officers to be kept on record.
- The relevant Service Manager/Service Area, to inform them of the appropriate steps to take should customer contact occur.
- The relevant Councillor and/or Portfolio Holder if appropriate (e.g. it is topically or geographically appropriate and the correct information sharing arrangements are in place e.g. consent). The customer may choose to involve one or more Councillors, or it may be appropriate to make arrangements to share information in the following circumstances:
 - the Councillor is the recipient of excessive correspondence or other forms of unreasonable behaviour.
 - there is a community complaint where the representative displays unreasonable behaviour (community complaints are those made by a group of customers usually with a community representative acting on their behalf).
 - the matters raised relate to a local issue or a policy issue (and a Councillor is very actively involved as a local member or as a portfolio holder).
- In extreme or rapidly escalating cases, it may be necessary to immediately impose restrictions to ensure the safety of staff members. This is a decision which will be taken by the Head of Service, Assistant Director or Executive Director.
- Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Council's staff, other options will be considered; for example, reporting the matter to the Police or taking legal action. This is covered in the Health and Safety Policy.
- In instances involving formal procedures (i.e. Penalty Charge Notices or Freedom of Information requests) where a customer whose enquiry has been closed or responded to, persists in communicating with the Council about the issue, the Council may decide to terminate contact with the individual. In such cases all correspondence relating to the enquiry will be reviewed with the appropriate lead officers e.g. Information Governance officers. Unless there is fresh evidence which affects the outcome of the enquiry then any communication may be logged only, and a response will not be made to the customer.

Appeal

If the customer feels that the decision for restricted contact to the council as a vexatious or unreasonably persistent customer is unfair or incorrect, they can contact the Feedback and Insight Team using the contact details below.

Email: CustomerFeedback@shropshire.gov.uk

Write to: Feedback and Insight Team (complaints), Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND.

The senior manager (Head of Service, Assistant Director or Executive Director) will be informed of the concerns and given the opportunity to respond. Should the decision stand, the customer may approach the Local Government and Social Care Ombudsman (see details in 10. below).

Review Process

- Once an individual has been classified as a vexatious or unreasonably persistent, there is a review process for withdrawing this status if, for example, a more reasonable approach is subsequently demonstrated by the customer.
- A review will be conducted at the end of the restricted period (often at 6 to 12 month intervals, as appropriate based on the level of impact) by the Service Manager, Head of Service or Executive Director (if possible the senior manager responsible for the original decision).
- The Head of Service, Assistant Director or Executive Director will review all contacts received from the customer during the restricted period and will consider if all or any of this contact relates to the reason that the unreasonably persistent/vexatious policy was invoked.
- If the decision is that the restriction is to continue, the reasons and timeframe will be detailed in writing. Restrictions will automatically end if the reasons for the restriction(s) have ceased.

8. Monitoring

Reports will be provided to Senior Management, on request, highlighting key information about instances where this procedure has been invoked, including:

- How many times the procedure has been invoked;
- How many times a decision has been taken not to classify a customer as unreasonably persistent or vexatious;
- Number of reviews;
- Numbers on the register and name only;
- Why customers on the register (i.e. themes);
- Learning from the instances above.

9. Procedure Review

This procedure will be reviewed as necessary.

10. Independent Consideration

Application of the procedure must be agreed by senior management within Shropshire Council. This is designed to ensure robust consideration is made (and evidence gathered) prior to imposing any restrictions on contact. Any concerns about the application of the procedure should therefore be directed to the Local Government and Social Care Ombudsman.

Website: www.lgo.org.uk
Telephone: 0300 061 0614

Address:
Local Government and Social Care Ombudsman
PO Box 4771
Coventry
CV4 0EH

11. Links to other policies

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. Depending on the circumstances of each case, there may be links or reference made to Shropshire Council's bullying and harassment policy, health and safety policy, staff code of conduct or similar staff guidance documents, information governance policies/guidance and disciplinary procedure.

There may also be links to the Council's strategic equality objectives, through which the Council seeks to progress the three national equality aims as set out in the Equality Act 2010, in line with our Public Sector Equality Duty. This includes support for our workforce, as the Council will not tolerate discrimination, harassment and victimisation of our employees.