



**WELWYN
HATFIELD**

Vexatious and Persistent Behaviour Policy

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1. Introduction

Welwyn Hatfield Borough Council ('the council') is committed to investigating and responding to all complaints fairly, comprehensively, and in a timely manner. However, there are a minority of cases where a person complains in a way that prevents the council staff from investigating the complaint; takes up a disproportionate level of resources; or is considered to be unacceptable.

We do not believe that raising legitimate queries or criticisms of our services or officers should in itself lead to a complaint being regarded as vexatious or a complainant as unreasonably persistent. We accept that if a complainant is unhappy with the outcome of a complaint and seeks to challenge it, this should also not cause us to label the complaint as vexatious.

However, if a complainant behaves in a way that is unreasonably persistent or abusive we will follow this policy. We do not expect our staff to tolerate unacceptable behaviour by complainants or any customer or member of the public and will take firm action to protect them from this.

2. Aims of this policy

This policy aims to deal with abusive contact from complainants and explain the circumstances in which we may treat a complaint as vexatious or a complainant as unreasonably persistent. It aims to establish a working environment for our staff where their exposure to unnecessary stress or fear of harm due to the unacceptable behaviour of others is managed.

The policy supports the council's commitment to deal with all complaints in a consistent, fair and reasonable way. It is intended for the use of staff, our partner organisations, Members, customers and members of the public.

This policy also links to our Staff Protection Policy, which may also be employed in circumstances where our staff are threatened and deemed to be at risk.

3. Definitions

We define unreasonably persistent and vexatious complaints as those that, because of the frequency or nature of a complainant's contact with our officers, hinder our consideration of their (or other people's) complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complaint.

We have adopted the Local Government Ombudsman's (LGO) definition of "**unreasonable complainant behaviour**" and "**unreasonable persistent complaints**"

We will treat as abusive, any behaviour that seeks to harass, verbally abuse or otherwise intimidate our officers. This can include the use of foul or inappropriate language, verbal threats or the use of offensive and hateful language (such as that which is racist, homophobic or refers to another characteristic). Such behaviour may also be dealt with through our Staff Protection Policy.



Abusive behaviour may be demonstrated through:

- Using threatening, offensive or foul language on the telephone.
- Using threatening, offensive or foul language face to face.
- Sending threatening or offensive emails.
- Leaving threatening or offensive voicemails.
- The use of offensive or threatening posts on social networks.
- Using passive aggressive communications.
- Using any form of communication that is considered intimidating.

Any actual or perceived threat of violence, or actual violence, will also be addressed under the council's Staff Protection Policy, and will be reported to the Police.

4. Examples of Unreasonable or Persistent Behaviour

Features of an unreasonable or persistent complainant 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).

An unreasonable or persistent complainant may:

- Refuse to specify the grounds of a complaint despite numerous offers of assistance.
- Refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure.
- Refuse to accept that issues are not within the power of the council to change or influence (examples could be a complaint about a service delivered by another organisation or a decision made based on legislation or policy).
- Insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint).
- Make what appear to be groundless complaints about the officers dealing with the complaints, and seek to have the officer dismissed or replaced.
- Make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints.
- Make persistent and unreasonable demands or expectations of officers and/or the complaints process after the unreasonable behaviour has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails).
- Raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process.



- Introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on.
- Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
- Electronically record meetings and conversations without the prior knowledge and consent of a council officer or any other person involved.
- Adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the council, but at the same time with a Member of Parliament, officers of the council(s), elected Councillors, any of the councils' independent auditors, the police, solicitors, and the Local Government or Housing Ombudsman.
- Refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given.
- Make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure.
- Persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons.
- Refuse to accept documented evidence as factual.
- Complain about or challenge an issue based on a historic and irreversible decision or incident.
- Combine some or all of these features.

5. Dealing with abusive and threatening behaviour

Our officers accept that people under stress or who are feeling angry or upset may react in an abusive or aggressive way to the person with whom they are dealing. However, a balance must be drawn between the ability and desire to assist a complainant and what can reasonably be achieved in the circumstances.

6. Over the telephone

In situations where the language and content of telephone calls becomes abusive or threatening to officers, it is acceptable for a council employee to terminate a telephone conversation.

In all cases the officer should remain polite and, wherever possible:

- Provide the complainant with the opportunity to modify their behaviour by informing the complainant that unless they do so, the call will be terminated.
- If a call needs to be terminated as a result of the complainant's conduct a file record must be kept and the service manager advised.



7. Face to Face

The personal safety of the council officers is of paramount importance and if during face to face meetings the complainant's behaviour becomes aggressive, abusive or displays high levels of distress the meeting should be brought to an end as quickly as possible.

The decision to end a meeting should (if possible) be explained clearly and politely, so that the complainant does not feel that they are being dismissed or their complaint ignored. Unless it is clearly inappropriate to do so, they should also be informed that it may be possible to continue the conversation at a future meeting when they are less distressed.

If an officer feels their personal safety is in immediate risk, an officer will end the meeting without explanation and if deemed necessary without warning, and the matter dealt with under the council's Staff Protection Policy. Where a meeting is terminated because of the conduct of the complainant a file note of the incident will be made and the matter brought to the attention of the service manager in writing.

Officers in receipt of abusive or threatening correspondence need not reply to this other than to acknowledge its receipt. All such correspondence should be brought to the attention of the relevant service manager.

The relevant service manager will review the case and may decide to respond to the complainant explaining that the tone of their correspondence is unacceptable and that no further correspondence will be entered into unless the complainant amends their tone. (More detail is provided in Section 9 below).

8. When there is a serious incident

This policy is specifically aimed at dealing with complaints that have become vexatious. However, in extreme cases where there are direct and credible threats or incidents of violence, this will be referred immediately to the police.

If the behaviour is serious enough to involve the police, the relevant service manager will make this decision.

All such incidents will additionally be dealt with under the Council's Staff Protection Policy.

9. Imposing restrictions

In all cases where a complainant feels that the service they have received has fallen short of the high standards we set for our organisation, their complaint will be investigated in accordance with our published complaints policy and procedure.

If a complainant is persistently abusive when they contact our officers or persistently makes contact to discuss a complaint or make further complaints and this is proving time consuming and disruptive, the following steps will be taken to deal with this:

- The service manager or above will contact the complainant either by phone, in writing or by email to explain to the complainant why their behaviour is causing concern and ask them to moderate their behaviour. The service manager or above will explain the actions that we may take if the behaviour does not change.



- If the disruptive behaviour continues, a decision may be taken to apply restrictions to contact between the complainant and the council. This decision can only be made following completion of an incident report form and consultation between two senior officers at Head of Service Level or above and the decision recorded, with reason/s for the decision.
- If it is decided to impose restrictions, a Head of Service or Corporate Director will write to the complainant (if appropriate) advising them of the restrictions to be imposed in relation to further contact with the complainant / council. Please refer to Section 10 below and the council's Staff Protection Policy 2018 for further information.
- Where a complainant continues to behave in a way which is unacceptable, a Head of Service in consultation with the appropriate Corporate Director may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- All restrictions will be recorded and monitored by the council's Risk and Resilience Team.

Where the behaviour is so extreme or it threatens the immediate safety and welfare of officers, the council's Staff Protection Policy enables us to consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action.

Any restriction that is imposed on the complainant's contact with us will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Refusing to take further contact from the complainant by telephone except through a third party e.g. solicitor/councillor/friend acting on their behalf.
- Refusing to accept emails from the complainant insisting instead that they correspond by letter.
- Banning the complainant from accessing any of our offices except by appointment.
- Requiring contact to take place with one named member of staff only.
- Restricting telephone calls to specified days / times / duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence).
- Restricting or even denying social media users access to our sites.
- Refusing to make home visits, or making these only by staff attending in pairs.

10. Informing process

When the decision has been taken to apply restrictions to a complainant, a Head of Service or Corporate Director will contact the complainant in writing or email (and/or as appropriate) to explain:

- 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 complainant to contact the Local Government / Housing Ombudsman about the fact that they have been treated as an unreasonable or persistent complainant.

11. New issues from people who have been identified as abusive, unreasonable or persistent

New complaints from people who have who have been identified as abusive, unreasonable or persistent under this policy will be treated separately. The service manager, in conjunction with the Head of Service or Corporate Director will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are well founded.

The fact that a complainant is judged to be abusive, threatening, or unreasonably persistent and has had restrictions imposed on contact previously, will be recorded and notified to those who need to know within the council in line with the Staff Protection Policy 2018.

12. Review arrangements

The Risk and Resilience Team will monitor restrictions and review notifications.

The status of a complainant judged to be unreasonably persistent or abusive will be reviewed by the Head of Service after 12 months.

Please refer to the council’s Staff Protection Policy 2018 for further information.

13. Referring unreasonable or persistent complainants to the Local Government or Housing Ombudsman

The Ombudsman will normally only consider complaints if the complainant has exhausted the two stages of the council’s complaints procedure.

In some cases, relations between the council and complainants break down completely while complaints are under investigation and we may not achieve 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.

The role of the Ombudsman is to investigate complaints about ‘maladministration’ and ‘service failure’ and whether any ‘fault’ by the council had an adverse impact on the complainant. The Ombudsman does not question whether a decision by the council is ‘right’ or ‘wrong’ simply because the complainant disagrees with it. They only consider whether there was any fault in the way the decision was reached.

In the case of complaints relating to a council housing tenancy or lease, prior to approaching the Housing Ombudsman the tenant (including leaseholders) has the right under the Localism Act of 2011 to refer the matter to a “Designated Person” which currently is a Councillor or MP. The Designated Person may engage with the complainant and the council in trying resolving the complaint or referring the matter to the Housing Ombudsman after it has been considered at all stages of the council’s complaints procedures. The Housing Ombudsman has the right to insist on a cooling off period of 8 weeks after the final stage response before accepting the complaint, unless the tenant has already referred the matter to a Designated Person.



The contact details of the Ombudsman's service are sent out with all final stage response letters.

Local Government & Social Care Ombudsman

PO Box 4771
Coventry CV4 0EH
Tel: 0300 061 0614
Website at: www.lgo.org.uk

Housing Ombudsman Service (for council tenants with a tenancy/housing specific complaint)

Exchange Tower
Harbour Exchange Square
London, E14 9GE
Telephone: 0300 111 3000
Email: info@housing-ombudsman.org.uk
Website at: www.housing-ombudsman.org.uk

You may be required to wait until **8 weeks** have elapsed from the date of the final response letter.

14. Record keeping

Records will be retained by the appropriate manager of the details of the case and the action that has been taken and will include:

- The name and address of each customers who is treated as abusive, vexatious or persistent
- When the restriction came into force and ends
- What the restrictions are
- When the customer and services were advised
- Any measures that the council puts in place when contact is necessary.

Please refer to the council's Staff Protection Policy 2018 for further information.

15. Monitoring and review of policy

This policy will be subject to review every three years, with interim revisions to be made on an exceptional basis in light of any legislative or regulatory changes, or in line with best practice.

16. Responsibility

The Head of Policy and Culture is responsible for this policy. This includes its implementation and review, ensuring that all related procedural and guidance notes are timely and accurate, co-ordinating the complaints handling procedure, and monitoring performance.

Each Head of Service will be responsible for ensuring that teams adhere to this policy, our customer service standards and for driving performance improvement where that is required.



17. Impact Assessment

An impact assessment on our customer service standards for complaints has been conducted during the consultation process.

18. Data Protection

When you make a complaint, we will log information about your complaint and your name and contact details. Information will only be collected and stored for the purposes of dealing with your complaint and improving our services. Your complaint and details will be treated confidentially.

All complaints are treated confidentially. Notwithstanding the freedom of information Act 2000.

Please refer to the council Data Protection guidelines: <http://www.welhat.gov.uk/Data-Protection>

19. Equality Act 2010

The Equality Act ensures that an individual should not be discriminated against on any of the following grounds: age, disability, gender reassignment, race, religion or belief, sex, sexual orientation, marriage and civil partnership and pregnancy and maternity.

For more information on this policy, please visit: <http://www.welhat.gov.uk/equality>



Related Documents

Document	Link
Connected Policies:	Complaints Policy Equality Policy Data Protection Guidelines Staff Protection Policy 2018
Forms and Letters:	Making a Complaint
Leaflets:	Making a Complaint

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Signed off by:	CMT April 2019		
Author:	Complaints Working Group		

