

# Unreasonable Behaviour Policy

Application:	This policy applies to the council and its partners.
Further Information:	Karen McKenzie – Customer Services and Improvements Manager



## **1. Introduction**

On occasions staff come into contact with customers who absorb a disproportionate amount of resources when dealing with their complaint or enquiry. This is despite there being nothing further that can reasonably be done to assist them or rectify a real or perceived problem. In these situations, the decision may be made to classify the customer as **Unreasonable or an Unreasonable Persistent Customer who may also display unacceptable Behaviour.**

Managing unreasonable customers can be difficult and time consuming. While staff are expected to respond professionally and to be sensitive and empathetic to the needs of all; unreasonable customers can, by their approach or behaviour, cause staff to have additional workload. Therefore, staff will need to be supported and guided in how best to respond in these situations.

This policy can be used in conjunction with the council's Complaints Policy and provides a framework to aid the decision-making process when the person may be thought to be an unreasonable complainant. It stresses the importance of discretion prior to policy application and the importance of balancing the rights of the individual to have their complaint(s) or enquiries addressed thoroughly and appropriately with the rights of staff involved in complaints handling to be treated reasonably.

### **Definition of an unreasonable customer**

Customers who because of their behaviour and/or frequency of contacts with the council or its partner organisations, hinder the consideration of their own enquiry or complaint. This can be an isolated or recurrent incident or behaviour, which is displayed over a long period.

### **The policy applies to**

- All council staff with daily and routine contact with customers.
- For the council's partner organisations, use of the policy may not be appropriate advice can be obtained from the Corporate Customer Service Team.

## **2. Key policy requirements**

- 2.1 It is emphasised that this policy should only be applied after all appropriate and reasonable measures have been taken to find a resolution. Every effort must therefore be taken to ensure all material or substantial aspects of a complaint/enquiry are thoroughly addressed before the unreasonable behaviour policy may be considered as a course of action. This ensures that all initial complaints and enquiries are handled in a fair and equitable manner.

- 2.2 Any member of staff who believes the unreasonable behaviour policy might apply or come to apply in the future must ensure that full and detailed documentation is maintained. This should include complaint or file notes with dates, witnesses and details of personal contacts and records of conversations.
- 2.3 The collection of documentation is important and will enable the formation of an 'audit trail' including decision-making and the rationale for any action taken. It is good practice to use the council's Customer Relationship Management system (CRM) and the Incidents and Accidents reporting module to log events or incidents, particularly if abuse or threatened violence is present.

### **3. Classification of an Unreasonable (Persistent) customer**

#### **3.1 A customer has threatened, or used actual physical violence towards staff or their colleagues at any time.**

This will result in any further personal contact with the customer being immediately discontinued and the matter reported to the police and/or consideration of legal action.

If violence is threatened or undertaken by a customer or their representative, an Incidents and Accidents report should always be completed and consideration given as to whether other policies need to be invoked. Advice can always be sought from a relevant Senior Manager, Head of Service or Legal Services.

#### **3.2 The customer has harassed, or been personally abusive or aggressive towards staff**

This includes the use of threatening, abusive or offensive language, swearing and/or offensive remarks and derogatory racial or sexual remarks. If a customer is continually rude or considered to be aggressive or offensive by staff, despite every effort being made to deal with their concerns, this can also constitute grounds for applying the policy.

Staff must recognise that customers may sometimes act out of character at times of stress, anxiety, or distress, especially when the complaint or enquiry concerns bereavement and should make reasonable allowances for this. Again, all incidents of alleged harassment must be reported as an Incident and consideration given as to whether other policies need to be invoked. Advice can always be sought from a relevant Senior Manager, Head of Service or Legal Services.

#### **3.3 The customer is displaying or has displayed unreasonable demands or expectations, is persistent in their demands and fails to accept that these may be unreasonable.**

An example of when this might apply is if a customer insists on a response to their complaint or enquiry being provided more urgently than is reasonable, or contrary to the council's standards or practice. Unreasonable customers may make an excessive number of telephone calls to an individual or department despite being advised of intended action or the availability of the person. Sometimes this behaviour escalates to include other council staff and manifests as demands to speak to more senior council personnel or make repeated complaints about multiple numbers of staff.

**3.4 A customer becomes focused on a trivial matter to an extent, which is out of proportion to its significance, and continues to focus on this point.**

It is recognised that determining what a 'trivial' matter is can be subjective and careful judgement must be used in applying this classification.

Guidance on what constitutes a 'trivial' matter can be obtained from Senior Managers.

**3.5 The complainant has been known to have filmed or recorded meetings or face to face/telephone conversations without the prior knowledge and consent of other parties involved.**

A recorded image/voice etc. represents the "personal data" of that individual. In order to process any data, you need to do so "fairly and lawfully" (1<sup>st</sup> Data Protection principle). Recording without permission would not be "fair" and might be unlawful. Recording of that nature without consent can be construed as harassment. Particularly if, there is a risk that the footage/recording is made public.

**3.6 In cases where the customer's behaviour may be attributed to mental health issues, where possible the opinion of the social worker or other relevant individual must be sought in relation to this decision.**

Careful consideration should be given to these circumstances prior to approaching the Corporate Customer Services Team to authorise implementation of the policy.

***Within the Formal Complaints process***

**3.7 A customer changes the substance of a complaint, or continually raises new issues and/or seeks to prolong contact by continually raising further concerns or questions upon receipt of a response, whilst the complaint is being addressed.**

Services must take care not to discard new issues, which are significantly different from the original complaint. These might need to be addressed as separate complaints. Legitimate complaints, however poorly presented, must be investigated. Judgement must be exercised in deciding how best to deal with these new issues either as separate complaints or as additions to the existing complaint, so responses are delivered as speedily as possible and the resources of the council are not wasted.

**3.8 The customer appears unwilling to accept documented evidence as factual.**

This may apply in circumstances when all possible avenues of the complaint process or enquiry have been exhausted, including the outcome of a local resolution meeting(s) and a request for Local Government Ombudsman and Social Care Ombudsman/Housing Ombudsman (LGSCO/HO) intervention. The customer is unable or unwilling to accept documented factual evidence and explanations given.

The customer might also refute they have had an adequate response to their complaint. This is despite a consensus from the Service Manager, Complaint Officer, Investigating Team, or Service Director etc. Some customers may refuse to accept for example that facts can sometimes be difficult to verify when a long period has elapsed.

**3.9 In the course of managing a registered complaint, the customer is making or has made an excessive number of contacts with the council and placed unreasonable demands on staff.**

A contact may be in person or by telephone, letter, or email. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case. Full details of each contact must be recorded and presented to the Senior Manager and the Corporate Customer Services Team for authorisation.

**3.10 A customer does not clearly identify the precise issues, which they wish have investigated.**

***Further advice can be obtained from the LGSCO website: Guidance note on managing unreasonable complainant behaviour.***

**4. Managing unreasonable customers**

4.1 In determining arrangements for handling such customers, staff must consider the following:

**4.2 Has the complaints procedure been correctly implemented so far as possible?**

Every effort must be taken to ensure that no material element of a complaint is overlooked or inadequately addressed. It must also be appreciated that even unreasonable customers may have aspects of their complaints that contain some genuine substance. Therefore, the need to ensure an equitable approach is crucial. It is important to also remember that the customer retains their right to request a review of their complaint by the Ombudsman.

#### 4.3 **Is there evidence to suggest that a customer has become unreasonable?**

It must be remembered that ideally the implementation of this policy should only occur in **exceptional circumstances**. There must therefore be clear evidence to support the classification of a customer as unreasonable. Such evidence could be written correspondence, record of meetings, records of telephone calls or visits.

#### 4.4 **Warnings**

In most instances before any action is taken under the policy we will explain to the customer in writing what aspects of their conduct has given cause for concern and ask them to change it. The customer will be warned that if the conduct persists, their case may be considered under the Unreasonable Behaviour policy. A copy of the Unreasonable Behaviour Policy will be included with the warning letter.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of an employee we will report the matter to the police and/or consider taking legal action. In such cases, we may not issue a warning letter.

- 4.5 Good judgement and discretion must be used in applying the criteria to identify a potential unreasonable customer and in deciding what action to be taken in specific cases.
- 4.6 The policy can only be implemented following careful consideration by a Service Manager and with the authorisation of the Corporate Customer Services Team. This includes where one or more of the council's partners wishes to apply the policy to one of their customers, who might not necessarily have accessed other council services. In these circumstances, they will need to discuss the case with a Service Manager before the request is made to the Corporate Customer Services Team.
- 4.7 It must also be noted that although the decision might be made to apply the policy to a customer demonstrating unacceptable behaviour to one of the organisations delivering services on behalf of the council, or a specific area of the council's business, their dealings with other services might be deemed acceptable. In these circumstances, a blanket application of the policy might not be appropriate. Further advice on how to deal with these types of issues can be obtained from the Corporate Customer Services Team.

### **5. Options for restricting service to unreasonable customers**

- 5.1 Prior to any final decision being made to classify the customer as unreasonable the Customer Services and Improvements Manager will receive a summary of the particulars of the case. This will have been compiled by the service equivalent or other nominated

service manager. The summary will include any evidence to support the application gathered from any file records the complaint file or through incident reporting, as well as from other sources. The summary must also include all of the options for managing the customer and resolution of the matter going forward.

- 5.2 When it is agreed that a customer meets the policy criteria, the Customer Services and Improvements Manager will confirm that options put forward by the service area can be taken in line with the policy. This may include:
- **Decline contact with the customer except through a designated person, point of contact, team or independent advocate.** This will include contact in person, by telephone, letter, e-mail, or any combination of these provided.
  - **Restricting telephone calls to specified days and limited times.**
  - **Asking the customer to make an agreement about their issue and contacts.** This might take the form of organised mediation and/or a signed agreement with the customer (and if appropriate involving the relevant social worker or key worker in a two-way agreement). This will set out a code of behaviour for the parties involved if we continue processing the complaint or enquiry. If these terms are contravened, consideration would be given to implementing other action as indicated in this section.
  - **Refusing to accept further complaints from the customer about topics that have already been the subject of an investigation.** The customer will be notified that we will not accept further communications and correspondence about the original issue and they will not be answered.
  - **Temporarily suspend all contact with the customer, or investigation of a complaint, whilst seeking legal advice or guidance from the LGSCO/HO, or other relevant departments e.g. the council's legal team.**
  - **Inform the customer that, in appropriate circumstances, the council reserves the right to pass reports of serious unreasonable behaviour and threats of physical violence to the police.**

*This is not an exhaustive list more appropriate restrictions will be considered.*

## **6. Notifying and recording the decision**

- 6.1 The Customer Services and Improvements Manager or another suitable Senior Managers within customer services (head of service or above) will authorise the appropriate action.
- 6.2 The Service Area where the complaint/query originated will monitor the customer's compliance to any agreements or service provisions made under the policy and update their file and system information as required. This information will be used at any point in the procedure and at review.

[Central.complaints@islington.gov.uk](mailto:Central.complaints@islington.gov.uk)

020 7527 3007

- 6.3 The Service Area will be responsible for ensuring that key staff are aware of these customers they will also be responsible for informing staff of any changes in the status and/or management of these individuals.
- 6.4 The Corporate Customer Services Team will ensure that service restrictions are on the council's CRM system as an Alert and/or on the Potentially Violent Person (PVP) record.
- 6.5 The Customer Services and Improvements Manager will note the decision and place copies of this and any letters sent to the customer in a central file, to be retained for future reference. The customer will receive written notification of the decision along with reason why the policy has been applied details of any service restrictions and length of the restriction. The notification may also be copied onto the CRM system for the information of others already involved, such the designated person, complaint leads, service heads, contact Islington and members of parliament.
- 6.6 The file record will also include a date of the decision to categorise the customer as unreasonable and when the status will be reviewed and end. This will normally be a period of no longer than one year from the date of the incident although the exact date will depend on the nature of the incident. Please note that unreasonable status may be reviewed and a person placed back on the register if there is sufficient justification and it is deemed necessary to do.
- 6.7 The service area will be responsible for ensuring that any member of their staff distressed by an incident are supported and the services of the Staff Counselling Service or any other support service made available.
- 6.8 It should be noted that a customer who is deemed to be unreasonable under this policy has the right to make further new complaints or enquiries if they so wish. However, these will not be considered if they relate to a something that has already been fully investigated or proves to be unfounded and simply an attempt to prolong contact with the council. Any new complaint/ query should therefore be forwarded to the service Senior Manager or designated person if one is assigned for consideration and to ensure the customer is treated fairly.
- 6.9 However, the customer must at all times conduct themselves in an acceptable and courteous manner and not verbally harass to cause offence to staff and other service users.
- 6.10 Being deemed unreasonable does not bar requests under FOI (Freedom of Information) or DPA (Data Protection Act) and Subject Access Requests (SAR). Requests must be made in writing to the Information Governance Team.
- 6.11 Privacy Notice: Information provided can be used for the purposes of managing the policy and administering the unreasonable behaviour register. All data must be held securely and processed in accordance with the Data Protection Act 2018 and the General Data Protection Regulation. The council might share the customer's name, contact

details and details of the behaviour with other services in the council. Further details can be found at [www.islington.gov.uk/about-the-council/information-governance/data-protection/privacy-notice](http://www.islington.gov.uk/about-the-council/information-governance/data-protection/privacy-notice)

6.12 Being placed on the unreasonable behaviour register is a last resort and as such, there is no right of appeal under the unreasonable behaviour policy.

## **7. Withdrawing the unreasonable status**

7.1 Once customers have been determined as unreasonable, there needs to be a mechanism for withdrawing this status later. Reasons for this might, for example, be where customers subsequently demonstrate a more reasonable approach.

7.2 Staff who have recommended the unreasonable behaviour status at the outset should similarly recommend that this status be withdrawn when appropriate.

7.3 The corporate customer services team will also have recorded the date for a review of the status of any customer categorised as unreasonable and will highlight the case for regular review as necessary.

7.4 Where staff has recommended the review of an unreasonable customer, or where the case is due for review discussions will be held with the corporate customer services team. Subject to approval, normal contact with the customer and application of the council's complaint procedure and services will then resume.

## **8. Failure to adhere to the restrictions**

8.1. If the customer continues to behave unreasonably, or does not adhere to the restrictions placed on them we may decide to take further action. There are various possibilities depending on the nature and extent of the behaviour in question. This may include:

- Preventing incoming calls into the council by "blocking" their number, this will stop calls to a specific extension number(s).
- The Service Area may decide to end any form of contact with them. In this case, you must inform the customer of this. This action must be discussed and agreed with the Service Manager and Heads of Service as we must ensure that it is not in breach of any contractual duties to the customer or any safeguarding issues.
- Reporting to the police where the behaviour may be a criminal offence.

## 9. REVIEW OF PROCEDURE

9.1 This procedure will be reviewed and revised as and when appropriate.

Date	Updates
September 2016	Review – policy renamed previously Vexatious Complainant Policy.
March 2017	Amended 7.3 “routine review.” Numbered 8.1 and change in wording.
February 2018	Warnings 4.4
June 2018	Review Addition Privacy Notice 6.11
July 2019	Routine review
February 2021	Routine review