

# Unreasonable, Persistent or Vexatious Complainant Policy

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## 1.0 Purpose

Oadby & Wigston Borough Council is committed to dealing with complaints fairly, impartially and to providing a high level of service to any customer making a complaint.

As part of this service the Council does not normally limit the contact that customers have with its officers, however in a small number of cases, people pursue their complaints in a way that is unreasonable, persistent or vexatious.

In most instances when we consider someone's behaviour is unreasonable we will explain why and ask them to change it, but if they continue to behave unacceptably, or be unreasonably persistent in their contacts, it may be necessary to restrict the customer's contact with the Council

Oadby & Wigston Borough Council will not tolerate racist, sexist, homophobic or other discriminatory language, or offensive, threatening, aggressive or violent behaviour towards any of our Staff. The Council will take action to protect staff from such behaviour.

Where the behaviour is so serious it threatens the safety and wellbeing of others the matter may be subject to legal action.

This policy sets out how the Council will decide which complainants will be treated as unreasonable, persistent or vexatious, and what the Council will do in those circumstances. The policy is for the information of staff, Councillors and complainants.

## 2.0 Scope

This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints under the Council's Complaints Procedure.

Judgement, discretion and proportionality must be used in applying the criteria to identify unreasonable, persistent or vexatious complainants and in deciding on the appropriate action to be taken in specific cases.

## 3.0 Definition

The Council has considered the Local Government Ombudsman's (LGO) definition of "unreasonable complainant behaviour" when writing our definition

For us, unreasonable, persistent or vexatious complainants are those complainants who, because of the nature or frequency of their contacts, hinder the Council's consideration of their, or other people's complaints.

## 4.0 Recognising Unreasonable, Persistent or Vexatious Behaviour

The following are some examples of the main kinds of behaviours that may cause a customer to be designated as unreasonable, persistent or vexatious. The list is not exhaustive:

- Customer refuses to specify the grounds of a complaint, despite offers of help
- Customer refuses to co-operate with the investigation process while still wishing their complaint to be resolved
- Customer refuses to accept that the issues raised are not within the scope of the Complaints Process despite having been provided with information about its scope.
- Customer insists on the complaint being dealt with in ways that are incompatible with the Complaints Process or with good practice
- Customer makes unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced
- Customer changes the basis of the complaint as the investigation proceeds and/or denies statements they made at an earlier stage
- Customer introduces trivial or irrelevant new information, which they expect to be taken into account, or raises a large number of detailed but unimportant questions and insists they are all fully answered
- Customer adopts a 'scatter gun' approach: pursuing parallel complaints on the same issue with various departments or other organisations
- Customer makes unnecessarily excessive demands on our time and resources whilst a complaint is being looked into. For example, excessive telephoning or sending e-mails to numerous Council employees, writing lengthy complex letters every few days and expecting immediate responses
- Customer submits repeat complaints, after complaint processes have been completed, essentially about the same issues, with additions/variations which the customer insists make these 'new' complaints, which should be put through the full complaints procedure
- Customer refuses to accept the decision – repeatedly arguing the point and complaining about the decision
- Customer's complaints involves discriminatory and/or offensive language/ views/ behaviour
- Customer covertly records meetings and conversations
- Customer submits falsified documents from themselves or others
- Combinations of some or all of these.

## 5.0 Options for Action

The action taken should be appropriate and proportionate to the nature and frequency of the customer's contacts with the Council.

The following is a list of possible options for managing a customer's interactions with the Council. One or more might be chosen and applied.

The list is not exhaustive and the Compliance and Policy Officer and the Head of Law and Democracy will need to take account of relevant factors when deciding what might be appropriate action.

- Placing time limits on telephone conversations and personal contacts
- Restricting the number of telephone calls that will be taken (e.g. one call on one specified morning/afternoon of any week)
- Limiting the customer to one type of contact (e.g., telephone, letter, email, etc.)
- Limiting the customer to communicate only with a single point of contact, and/or limiting the location for contact
- Drawing up a signed agreement with the customer that sets out a code of behaviour
- Requiring any personal contacts to take place in the presence of a witness
- Refusing to register and process further complaints about the same matter
- Where a decision on a complaint has been made, providing the customer with acknowledgements only, or ultimately informing the customer that future correspondence will be read and placed on the file but not acknowledged.
- Asking the customer to re-submit their complaint without the inclusion of discriminatory/offensive language before the complaint will be dealt with. If appropriate, refer the matter to the Police as a Hate Incident

It is important to ensure that any contact restrictions put in place do not prevent the customer from requesting services on a day-to-day basis.

## 6.0 Decision Making

When a manager dealing with a complaint feels it is appropriate to consider the customers as unreasonable, persistent or vexatious, they need to complete the Unreasonable, Persistent or Vexatious customer consideration form (see appendix 1)

The decision to designate a customer's behaviour as unreasonable, persistent or vexatious could have serious consequences for them. So, before deciding whether the policy should be applied, the Compliance and Policy Officer and the Head of Law and Democracy must be satisfied that:

- The complaint is being or has been investigated properly
- Any decision reached on the complaint is the right one
- Communications with the customer have been adequate
- The customer is not providing any significant new information that might affect the Council's view on the complaint.
- Appropriate adjustments for Equality and Diversity issues have been fully taken into account and there is no reason to believe that cultural, language, or disability (including learning disability) barriers still exist which explain the behaviour of the customer

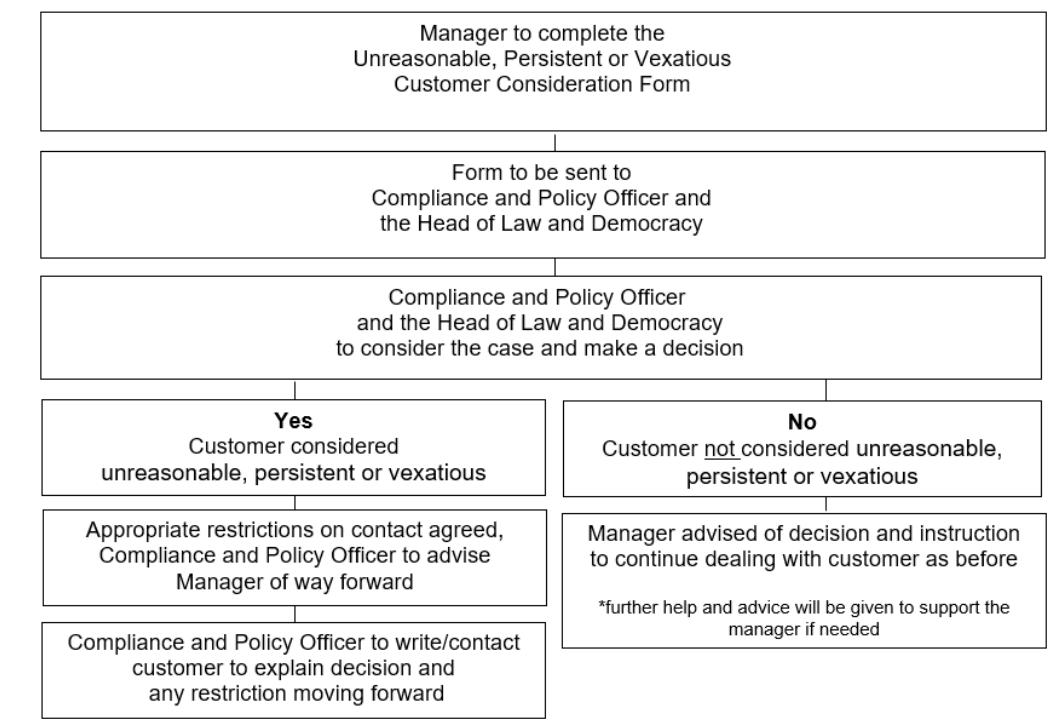
If the Compliance and Policy Officer and the Head of Law and Democracy agree the customers behaviour is unreasonable, persistent or vexatious they will consider what action to take and restriction on contact may be made.

### Records of Decisions

A record should be kept, by the Compliance and Policy Officer of all decisions that are taken, and the reasons for the decision.

## 7.0 Process of Consideration

This flowchart shows the process to be followed when considering treating customers as unreasonable, persistent or vexatious:



## 8.0 Operating the Policy

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, the Compliance and Policy Officer will 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
- What the complainant can do to have the decision reviewed.

### **New complaints from Complainants who are treated as unreasonable, persistent or vexatious**

If a customer, whose behaviour has been deemed to be vexatious under this policy, makes a complaint about a new issue this should be treated on its merits, and a decision will need to be taken on whether any restrictions are appropriate and necessary.

## 9.0 Challenges and Reviews

### **Challenge**

If a customer wishes to challenge the decision to designate their behaviour as unreasonable, persistent or vexatious, they should write to the Compliance and Policy Officer within 14 days of the decision, setting out the reasons for the challenge. The challenge process will be explained in the letter the Compliance and Policy Officer Sends to the customer.

If a challenge is received, it will be considered by a Senior Officer of the Council. A letter should be sent to the customer advising them of the outcome.

### **Review**

The designation and any restrictions should be kept under review.

Arrangements should be in place to check on the customer's contact and behaviour and to review the designation and restrictions at least once every 12 months. The Compliance and Policy Officer will write to the customer informing them of the outcome of the review.

If the decision is to continue to apply contact restrictions for a further period, the customer will be offered the right to challenge this decision.

They should write to the Compliance and Policy Officer within 14 days of the review letter, setting out the reasons for the challenge. If a challenge is received, it will be considered by a Senior Officer of the Council.

A letter should be sent to the customer advising them of the outcome.

## Appendix 1: Unreasonable, Persistent or Vexatious Customer Consideration Form

<b>First Name:</b>	<b>Last Name:</b>
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<b>Address:</b>	<b>Phone Number:</b> <b>Email Address:</b>
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**Details of application:**  
Describe the reason why you consider the complainant should be considered vexatious. Include information on:

- The length of time you/colleagues have been in contact with the complainant
- The amount of correspondence exchanged
- The nature of the complaint(s)
- The steps that have already been taken to resolve the situation

**Name of officer making this request:**

**Name of Authorising Senior Officer:**

**Nature of contact restriction**

<b>Signed:</b>	<b>Date:</b>
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