



Odiham
Parish Council

**POLICY AND GUIDANCE FOR
DEALING WITH PERSISTENT,
VEXATIOUS AND UNREASONABLE
CUSTOMER BEHAVIOUR**

Adopted on 12 June 2017
Reviewed and adopted on 14 May 2018

CONTENTS

- 1 Introduction
- 2 What is unreasonable customer behaviour?
- 3 Examples of unreasonable customer behaviour
- 4 What is a vexatious request?
- 5 Examples of a vexatious requests
- 6 How we will respond
- 7 Sharing the information and record keeping

1. INTRODUCTION

- 1.1 Odiham parish council aims to provide high quality services to all of our residents. However, when things fall short of this standard, we will deal with those who have a complaint fairly, honestly and properly through the council's complaints procedure.
- 1.2 Criticism and complaints against the council are a welcome and legitimate part of the relationship between the council and its local community. They are a valuable source of feedback on the operations of the council and assist in improving service quality. Most customers pursue their complaints in a reasonable and acceptable manner. A very small minority, however:
- persist unreasonably with their complaints (persistent customers).
 - or make complaints in order to make life difficult for the council rather than to genuinely resolve a grievance (vexatious customers).
 - or are abusive, offensive or threatening (unreasonable customers).

and these are the definitions used within this policy.

- 1.3 In those cases where staff, Cllrs or the council as a whole suffer adversely from persistent, vexatious or unreasonable customers, this policy will be applied.
- 1.4 This policy covers all forms of contact to staff and Cllrs such as telephone, text, letter, email, messaging via social networks or face to face contact.
- 1.5 The aim of this policy is to contribute to the overall aim of dealing with all customers in ways which are demonstrably consistent, fair and reasonable.

2. WHAT IS UNREASONABLE CUSTOMER BEHAVIOUR?

- 2.1 We define unreasonable behaviour as:
- “Unreasonable customers are those who, because of the nature or frequency of their contacts with the council, negatively impact our ability to deal effectively with their or other people's requests”.
- 2.2 Unreasonable behaviour may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually an accumulation of incidents or behaviour over a longer period.
- 2.3 We differentiate between 'persistent' customers and 'unreasonably persistent' customers.
- 2.4 Customers making a complaint can be 'persistent' where they feel we have not dealt with their complaint properly and are not prepared to leave the matter there. For example, it is not unreasonable for a customer to criticise how their complaint is being handled when our published procedures are not followed.
- 2.5 However, some customers may have justified complaints or requests but may pursue them in inappropriate ways such as lengthy phone calls, emails expecting immediate responses, detailed letters or emails every few days. Others may pursue complaints or requests which have no substance or which have already been considered and dealt with. Their contacts with us may be amicable but still place very heavy demands on staff.

2.6 Situations can escalate and in a few cases customers can become abusive, offensive, threatening or behave in a way that we may consider to be unacceptable. In these circumstances, we may have to restrict access to our premises or staff.

3. EXAMPLES OF UNREASONABLE CUSTOMER BEHAVIOUR

3.1 The following list, drawn up by the Local Government Ombudsman and recommended for inclusion in local council policies, provides examples of behaviour by customers which may be described as persistent, vexatious or unreasonable. OPC will not tolerate behaviour such as:

- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Refusing to co-operate with the complaints investigation process;
- Refusing to accept that certain issues are not within the scope of the complaints procedure;
- Insisting on the complaint being dealt with in ways which are incompatible with the complaints policy or with good practice;
- Misusing council telephone numbers, for example calling mobile numbers or those not intended for public use;
- Demanding special treatment/immediate escalation repeatedly;
- 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 numerous, detailed but unimportant questions, insisting they are all answered;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with the council, Hart DC, with Cllrs, the MP or Local Government Ombudsman;
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff/Cllrs, or detailed letters every few days, and expecting immediate responses;
- Submitting repeat complaints with minor additions/variations that the customer insists make these 'new' complaints;
- Refusing to accept the decision or repeatedly arguing points with no new evidence;
- Using abusive, offensive or threatening language.

4. WHAT IS A VEXATIOUS REQUEST?

4.1 We define a vexatious request as:

“A request that is likely to cause disproportionate or unjustified levels of disruption, irritation, or distress”

4.2 A vexatious request may include one or two individual requests for information, or may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute or it is the latest in a lengthy series of overlapping requests.

4.3 However, we will not automatically refuse a request simply because it is made in the context of a dispute or if it forms part of a series of requests.

4.4 We will consider each request for information on its own merits and we will not automatically refuse a request because the individual may have caused problems in the past. We will ensure that we consider whether the request (and not the requester) is vexatious with our focus being on the request itself.

4.5 Where a request is considered to be vexatious we may make the decision not to provide the information. Section 14 (1) of the Freedom of Information Act states that public authorities do not have to comply with vexatious requests where a request or its impact on the council can't be justified.

4.6 Whilst the council will think carefully before refusing a request as vexatious, OPC will not regard section 14 (1) as something which is only to be applied in the most extreme of circumstances.

4.7 The council understands that section 14 (1) can only be applied to the request itself and not the individual who submitted it. The council cannot, therefore, refuse a request on the grounds that the requester himself is vexatious. Similarly, the council cannot simply refuse a new request solely on the basis that it has classified previous requests from the same individual as vexatious.

5. EXAMPLES OF VEXATIOUS REQUESTS

5.1 The following indicators, are given by the Information Commissioner's Office to help identify potential vexatious requests. These indicators should not be regarded as either definitive or limiting. Public authorities remain free to refuse a request as vexatious based on their own assessment of all of the relevant circumstances. In most circumstances, the council will issue a refusal notice within 20 working days if a request is refused as vexatious.

- Abusive or aggressive language

The tone or language of the requesters' correspondence goes beyond the level of criticism that the council or its employees should reasonably expect to receive.

- Burden on the authority

The effort required to meet the request will be so grossly oppressive in terms of the strain on time and resources, that the council cannot reasonably be expected to comply, no matter how legitimate the subject matter or valid the intentions of the requesters.

- Personal grudges

For whatever reason, the requester is targeting their correspondence towards a particular employee or office holder against who they have some personal enmity.

- **Unreasonable persistence**
The requester is attempting to reopen an issue which has already been comprehensively addressed by the council, or otherwise subjected to some form of independent scrutiny.
- **Unfounded accusations**
The requester makes completely unsubstantiated accusations against the council or specific employees.
- **Intransigence**
The requester takes an unreasonable entrenched position, rejecting attempts to assist and advise out of hand and shows no willingness to engage with the authority.
- **Frequent or overlapping requests**
The requester submits frequent correspondence about the same issues or sends in new requests before the council has had an opportunity to address their earlier enquiries.
- **Deliberate intention to cause annoyance**
The requester has explicitly stated that it is their intention to cause disruption to the council or is a member of a campaign group whose stated aim is to disrupt the council.
- **Scattergun approach**
The requester appears to be part of a completely random approach, lacks any clear focus, or seems to have been solely designated for the purpose of “fishing” for information without any idea of what might be revealed.
- **Disproportionate effort**
The matter being pursued by the requester is relatively trivial and the council would have to expend a disproportionate amount of resources in order to meet their request.
- **No obvious intent to obtain information**
The requester is abusing their rights of access to information by using the legislation as a means to vent their anger at a particular decision, or to harass and annoy the council for example, by requesting information which the council knows them to possess already.
- **Futile request**
The issue at hand individually affects the requester and has already been conclusively resolved by the authority or subjected to some form of independent investigation.
- **Frivolous requests**
The subject matter is inane or extremely trivial and the request appears to lack any serious purpose. The request is made for the sole purpose of amusement.

6. HOW WE WILL RESPOND

- 6.1 The council will consider whether there might be a viable alternative to refusing a request and will consider writing to the customer to outline its concern about the way previous requests have been framed and set out what should be done differently to ensure that further requests are dealt with.
- 6.2 Prior to considering its implementation, the clerk will send a summary of this policy to the customer to give them prior notification of its possible implementations.
- 6.3 If a customer contacts the council because they are unhappy about the response to a complaint, it is important to understand why they are unhappy. If it is because the response does not cover all issues raised in the original complaint, this should be

addressed. If the customer is unhappy with the outcome of the complaint they should be encouraged to escalate their complaint to the next stage of the council's complaints procedure, details of which can be found on the council's website.

- 6.4 If the customer will not agree to escalation of their complaint or has exhausted the complaints escalation procedure but still persists in contacting the council about the same issue, the matter should be referred to full council.
- 6.5 Where staff are subject to unreasonable behaviour (such as verbal abuse) during a telephone call, site visit or face to face interview, they should advise the person concerned that the behaviour is unacceptable and that continued behaviour of this nature will lead to the telephone call/visit being aborted.¹
- 6.6 Notwithstanding the form of contact (telephone, email, fax, face to face, text etc.) staff are required to keep detailed and chronological notes of the case including time, dates and what was said, whilst it is still fresh in their memory.
- 6.7 This evidence as well as any documentary evidence will be passed to the Chairman and Vice-Chair who will reach a decision as to whether they consider that the customer is being unreasonable, persistent or vexatious.
- 6.8 Where it is concluded that the customer's behaviour is unreasonable, persistent or vexatious, in most instances the Chairman will contact the customer and tell them why we have reached this decision and ask them to change their behaviour. District Cllrs will also be notified of the action taken.
- 6.9 The status of the customer will be kept under review. If the customer subsequently demonstrates a more reasonable approach, then their status will be reviewed.
- 6.10 If their behaviour continues, we will take action to restrict the customer's contact with the council. Any such restrictions will be evidence based, appropriate and proportionate and the customer will in most circumstances be advised in writing why we believe their behaviour is unacceptable, what action we are taking and its planned duration. We will also tell them should the complaint still be under consideration six months later, we will review whether the restrictions imposed are still necessary and should remain.
- 6.11 Where the behaviour is so extreme that it threatens the immediate safety and welfare of the council's staff or Cllrs, we may report the matter to the police or consider taking legal action. In such cases, we may not give the customer prior warning of our intended actions.
- 6.12 In arriving at a decision to restrict access to services, any known relevant factors such as disability, language or illness will be fully considered.
- 6.13 The most likely options for restricting access or taking other actions will be:-
 - Specifying that contact will take place in a particular form (for example one letter a week);
 - Or through a single named member of staff or at specific days or times;
 - Requiring the customer to enter into an agreement about their future behaviour before their case proceeds;
 - Managing the case through an independent advocate;

¹ Please note, officers have the discretion to end the call/abort the visit without advising the customer of their unreasonable behaviour where to do so may inflame or worsen the situation.

- Other suitable actions, in light of the customer's circumstances;
- In extreme case repeated contact may be deemed to be harassment which may be reported to the police:
- If a customer continues to behave unreasonably, and overrides the restriction placed on access to the council's services, we may decide to terminate contact with them and discontinue any investigation into their complaint;
- Requiring any personal contact to take place in the presence of a witness;
- Banning a customer from some or all of the council's premises;
- New complaints from people, whose behaviour has previously been deemed unreasonable, persistent or vexatious will be treated on their merits. Restrictions imposed in respect of an earlier complaint will not automatically apply to a new matter.

7. SHARING THE INFORMATION AND RECORD KEEPING

- 7.1 To ensure the appropriate management of this policy, the council reserves the right to share details of any restrictions on access for customers as identified above with any services (including shared or externalised services where appropriate), staff or Cllrs who may come into contact with the customer.
- 7.2 The Clerk will retain adequate records of the details of the case and the action that has been taken. Records will be kept of:
- The name, address of each member of the public who's request is treated as persistent, vexatious or unreasonable;
 - When the restrictions came into force and end;
 - What the restrictions are;
 - When the person and council were advised.
- 7.3 The Chairman will be provided with an annual report giving information about members of the public whose requests have been treated as persistent, vexatious or unreasonable as per this policy.
- 7.4 This policy will be reviewed annually.
- 7.5 This policy should be read in association with OPC's other policies and guidance from the Information Commissioner.

8. RIGHT TO REQUEST AN INDEPENDENT PARTY TO REVIEW APPEALS

- 8.1 The Association of Local Councils (ALC) have agreed to be named as an independent party to review appeals with reference to this policy at the usual LCPD rate of £250 per day (quoted February 2018).