Sheffield City Council

Policy on Unreasonable Complainant Behaviour

April 2014
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1. Policy Statement

1.1. Sheffield City Council is committed to dealing with all complaints effectively, consistently and fairly.

1.2. In doing so, we do not usually limit the contact that customers have with the Council.

1.3. However, there are a small number of customers who, because of their behaviour, hinder us in delivering the services we provide to them or others.

1.4. We refer to such behaviour as ‘unreasonable’ complainant behaviour.

1.5. When a customer is being unreasonable, we may decide to designate their behaviour as unreasonable, and restrict their contact with the Council.

1.6. The decision to designate a customer’s behaviour as unreasonable will be taken by the relevant Head of Service, and will normally follow a warning to the customer.

1.7. Any restrictions we take will be appropriate and proportionate.

1.8. We will also make appropriate adjustments for any equality and diversity issues, such as culture, language, and disability.

1.9. In all cases, we will write to the customer to tell them why we believe their behaviour is unreasonable, what action we are taking, and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.

1.10. If a customer persists in communicating with us about a complaint that has already been responded to, we may decide to not enter into any further communication on this matter. In such cases, we will read all correspondence from customer, but unless there is any new information, we will simply acknowledge it and place it on file.

1.11. Ultimately, we may inform the customer that future correspondence will be read and placed on file with no acknowledgement.
2. **Definition of unreasonable behaviour**

2.1. ‘Unreasonable behaviour’ can be one or two isolated incidents, or ‘unreasonably persistent’ behaviour, which is an accumulation of incidents or behaviour over a longer period of time. In this policy we use the term ‘unreasonable’ to cover both types of behaviour.

2.2. In applying the definition, we differentiate between “persistent” and “unreasonably persistent” behaviour. For example, many people are persistent on an entirely reasonable basis, as they are pursuing a justified complaint, and they feel the Council has not dealt with it properly.

2.3. Raising legitimate queries or criticisms of a complaint investigation as it progresses, for example, if agreed timescales are not met, should not in itself lead to someone’s behaviour being regarded as unreasonable. Similarly, the fact that a customer is dissatisfied with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause their behaviour to be labelled unreasonably persistent.

3. **Scope of the policy**

3.1. This policy has been developed to deal with unreasonable behaviour by customers who have raised a complaint that is being/has been dealt with through the Council’s Complaints Policy\(^1\). This includes complaints covered by the Corporate Complaints Procedure, and complaints about adult social care, children’s social care and public health.

3.2. The policy does not apply to customer behaviour in relation to Freedom of Information Requests, as this is covered by separate procedures.

3.3. Sometimes a customer’s behaviour moves from being unreasonable to unacceptable. This includes behaviour that is abusive, offensive, threatening or violent, and also situations where employees are being harassed, or where there is a hate incident.

3.4. The Council has separate procedures for dealing with customer behaviour of this type. We will protect our employees from harassment and harm. Violent

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\(^1\) It is the Council’s policy that the approach set out in this policy can also be used alongside any service specific policies to manage other unreasonable customer behaviour, such as unreasonable behaviour with regard to service requests. When used for other unreasonable behaviour, managers will have regard to the guidance set out at sections, 5, 6, 7 and 9. However, there is no requirement to involve the Customer Services Team.
and hate incidents will be reported to the Council's Health & Safety Team. Where appropriate, incidents will be reported to the Police.

4. **Recognising unreasonable behaviour**

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

- Customer refuses to specify the grounds of a complaint, despite offers of assistance with this from Council employees

- 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 Policy despite having been provided with information about the Policy’s scope

- Customer insists on the complaint being dealt with in ways that are incompatible with the Complaints Policy or with good practice

- Customer makes what appear to be groundless complaints about the employees dealing with the complaint, and seeks 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 electronically records meetings and conversations without the prior knowledge and consent of the other persons involved

- Customer requesting information in relation to their complaint that under the Freedom of Information Act can be classed as a vexatious request and, as such, refused

- Customer adopts a ‘scattergun’ approach: pursuing a complaint with the Council and, at the same time, with a Member of Parliament/ a Councillor/ the Council’s independent auditor/ the Standards Board/ local police/ solicitors/ the Ombudsman
• 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

• Complaints involves discriminatory and/or offensive language/ views/ behaviour

• Combinations of some or all of these.

5. Considerations prior to taking action under the policy

5.1. Different considerations will apply depending on whether or not the complaint investigation has finished. When an investigation has finished, the Council has the option of ending further communication about the complaint, and where appropriate referring the customer to the relevant Ombudsman. However, when the complaint is still being investigated, there will need to be some contact with the customer.

5.2. The decision to designate a customer’s behaviour as unreasonable could have serious consequences for them. So, before deciding whether the policy should be applied, the Head of Service 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.

5.3. If the Head of Service is satisfied on these points, they should consider whether any further action is necessary before taking the decision to designate the customer’s behaviour as unreasonable. Examples of further action might be:

• One final letter to the customer from an officer of appropriate seniority confirming that the matter has exhausted the Council’s complaint procedures, and reminding the customer of other external routes through which they can pursue the matter, such as the Local Government Ombudsman.

• If no meeting has taken place between officers and the customer, and provided there is nothing known about the customer that would make this unadvisable, consider offering the customer a meeting with an officer of appropriate seniority. Such meetings can dispel misunderstandings and move matters towards a resolution.

• If more than one service is being contacted by the customer, consider setting up a strategy meeting to agree a cross-service approach, and designating a key officer to co-ordinate the Council’s response.

• If the customer has individual needs or needs a reasonable adjustment e.g., language needs, learning disability, etc., an interpreter or advocate might be helpful to both parties. Consider offering to help the customer to find an independent one.

• Discussing options for managing the complaint with the Complaints Managers in the Customer Services Team.

5.4. Before applying any restrictions, give the customer a warning in writing stating that if their behaviour continues, the Council may decide to designate their behaviour as unreasonable and explain why. It is important that the customer is given an opportunity to modify their behaviour before any restrictions are applied.
6. Options for action

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

6.2. 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 Head of Service 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.) and/or requiring the customer to communicate only with one named employee, 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. A designated officer should be identified who will read future correspondence.
- 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

6.3. 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.
7. **Invoking the Policy**

7.1. The relevant Head of Service will convene a meeting to consider the matter. This should involve the relevant service manager/s and Customer Services Complaints Managers.

7.2. Where the Head of Service is satisfied that the customer has demonstrated unreasonable behaviour and that other options have been considered, the Head of Service will determine what action to take.

7.3. If the unreasonable behaviour is affecting more than one service each relevant Head of Service should be consulted about whether the restrictions should be extended to their service. Agreement should be reached as to who will take the lead and communicate matters to the customer.

7.4. The Head of Service, or agreed lead Head of Service, will write to the customer informing them of:

- The decision that has been taken
- What it means for their contacts with the Council
- How long any restrictions will last and when these will next be reviewed
- Their right to challenge the decision in writing within 14 days, and have the decision reviewed by a more senior officer within 28 days of the date of the original decision letter.

7.5. The letter should enclose a copy of the Council’s Unreasonable Complainant Behaviour Policy Statement (see section 1).

7.6. In addition, the Head of Service should consider whether support should be provided to employees affected by the unreasonable behaviour.

8. **Records of Decisions**

8.1. A record should be kept, by the Complaints Team, of all decisions that are taken, and the reasons for the decision.

8.2. A copy of the letter to the customer and other records should be sent to the Complaints Team by the Head of Service.
9. **Challenge/Review of Designation**

9.1. If a customer wishes to challenge the decision to designate their behaviour as unreasonable, they should write to the Head of Service who made the decision within 14 days of the decision, setting out the reasons for the challenge.

9.2. In this instance, the decision should be reviewed by an appropriate Director. A letter should be sent to the customer advising them of the outcome.

9.3. The designation and any restrictions should be kept under review.

9.4. If a customer, whose behaviour has been deemed to be unreasonable 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.

9.5. 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.

9.6. A review meeting, if necessary, should be convened by the relevant Head of Service to consider whether the designation and restrictions placed on the customer’s contacts are still necessary.

9.7. The relevant Head of Service will write to the customer informing them of the outcome of the review.

9.8. If the decision is to continue to apply contact restrictions for a further period, the customer will be offered the right to challenge the decision and have the decision reviewed by a more senior officer within 28 days of the date of the review decision letter.

**Further Information**
For further information about the Unreasonable Complainant Behaviour Policy, contact the Complaints Team:

Email [complaintsmanagers@sheffield.gov.uk](mailto:complaintsmanagers@sheffield.gov.uk)

Telephone 0114 27 34884