

Boston Borough Council

Vexatious, Abusive or Persistent Customer Policy



1 Introduction

The Council welcomes the opportunity to hear from its customers when services are appreciated, but also wants to know when things go wrong. We are committed to dealing with all interactions with the Council, including complaints and general communications and provide a high quality service to those who make them in order we can continuously seek to improve our service, systems and procedures. As part of this service, the Council does not normally limit the contact that customers have with its Officers. Persistence in a matter, if justified, should not be considered vexatious.

However, a very small minority of customers make complaints that are vexatious, abusive or unreasonably persistent in order to make life difficult for the Council or individuals, rather than genuinely to resolve a grievance.

Examples may include (see section 3 for more detailed examples):

- Making excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous Council staff and Members, writing lengthy complex letters every few days and expecting immediate responses;
- Being personally abusive to staff in writing and verbally, including the use of social media and harassment of staff;
- Refusing to accept the decision, ie repeatedly arguing the point and complaining about the decision despite having been advised to refer it on to the Local Government Ombudsman (LGO) for an independent view.

This policy addresses these issues and relates to customers who make service enquiries as well as complaints. The Council does, however, recognise its duties under the Freedom of Information Act, the Data Protection Act and related legislation, to provide information to requesters.

2 Purpose of the Policy

To make it clear to all customers, both at initial contact and throughout their dealings with the Council, what the Council can or cannot do in relation to their complaint, in accordance with the Feedback Policy. In doing so, the Council aims to be open and not raise hopes or expectations that it cannot meet.

To deal fairly, honestly, consistently and appropriately with all customer contacts, including those whose actions we consider unacceptable. The Council believes that all customers and Council employees have the right to be heard, understood and respected.

To provide a service that is accessible to all customers. However, we retain the right, where we consider complainant actions to be unacceptable, to restrict or change access to our service.

To give the Council a framework to implement and take appropriate action against those customers who are deemed to be raising persistent, abusive or vexatious complaints or harassing council employees.

3 Defining unacceptable Actions by Customers

People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a customer contacting the Council. The Council does not view behaviour as unacceptable just because a customer is forceful or determined. However, the actions of customers who are angry, demanding or unreasonably persistent may result in unacceptable demands or behaviour towards Council employees. It is these actions that the Council considers unacceptable and aims to manage under this Policy to fulfil its duty of care to staff. The Council has grouped these actions under three broad headings and further examples may be found at Appendix A:

Aggressive or Abusive Behaviour

- a. We expect our staff to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. The anger felt by many customers involves the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards Council staff.
- b. The language a customer may direct towards our employees can, in times of distress or anger, become personally offensive. If the language or behaviour of a customer appears to be linked to the employee belonging to, or perceived as belonging to, a one of the protected characteristics under the Equality Act 2010, this will not be acceptable. See Appendix B.
- c. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused.
- d. Harassment may also include unwanted conduct related to a relevant protected characteristic as set out above.
- e. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks and rudeness. We also consider that inflammatory statements and unsubstantiated allegations can be abusive behaviour.
- f. Where physical violence has been used or threatened towards staff or their families/associated at any time, this will, in itself, cause personal contact to be discontinued. Thereafter, only one form of contact may be used such as

correspondence in writing. All such incidents should be documented on the Incident Register and in the first instance reported to the line Manager/Head of Service and notified as appropriate, to the police.

Unreasonable Demands

a. Customers may make what we consider unreasonable demands on the Council, for example through:

- the amount of information they seek;
- the nature and scale of service they expect;
- the number of approaches they make.

What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.

b. Examples of actions grouped under this heading include:

- demanding responses within an unreasonable time-scale;
- insisting on seeing or speaking to a particular member of staff;
- continually making phone calls or sending letters or emails;
- repeatedly changing the substance of the complaint;
- raising unrelated concerns.

c. We consider these demands as unacceptable and unreasonable if they start to impact substantially on the work of the Council, such as taking up an excessive amount of staff time to the disadvantage of other customers or functions.

d. Where the customer has submitted a request under the Freedom of Information Act, the Data Protection Act or the Environmental Regulations that is deemed to be unreasonable, advice should be sought from the Lead Officer for these areas in the first instance or in any event the Monitoring Officer.

Unreasonably Persistent

a. We recognise that some customers will not or cannot accept that the Council is unable to assist them further or provide a level of service other than that provided already. Customers may persist in disagreeing with the action or decision taken in relation to their complaint, service request or contact the office persistently about the same issue.

b. Examples of actions grouped under this heading include:

- persistent refusal to accept a decision made in relation to a complaint or service request;
- persistent refusal to accept explanations relating to what the Council can or cannot do;

- continuing to pursue a complaint or service request without presenting any new information.

The way in which these customers approach the Council may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

- c. The Council considers the actions of customer who may be considered persistent to be unacceptable when they take up, what is regarded as being a disproportionate amount of time and resources.

4. Managing Unacceptable Actions by Customers

There are relatively few customers whose actions the Council considers unacceptable. How the Council aims to manage these actions depends on their nature and extent. If it adversely affects our ability to do our work and provide a service to others, we may need to restrict customer contact with the Council in order to manage the unacceptable action. The Council will aim to do this in a way, wherever possible, that allows a complaint or service request to progress to completion through the Council's regular procedures or allow a customer to raise a new separate complaint or service request. We may restrict contact from that of in person directly with employees to electronically, by telephone, by fax, by letter or a combination of these. The Council will try to maintain at least one form of contact. In extreme situations, we will tell the customer in writing that their name is on a 'no personal contact' list to be maintained by the Corporate Director (Monitoring Officer). This means that they must restrict contact with the Council to either written communication or through a third party.

The threat of use of physical violence, verbal abuse or threatening behaviour towards Council employees is likely to result in the ending of all direct contact with the complainant and in certain circumstances, the Council may consider obtaining a Community Protection Notice (CPN). In addition, incidents may be reported to the police. This will always be the case if physical violence is used or threatened.

We do not deal with correspondence (letter, electronic or fax) that is abusive to employees. When this happens we tell the customer that we consider their language to be offensive, unnecessary and unhelpful. We will ask them to stop using such language and state that we will not respond to their correspondence if they do not stop.

Council employees will end telephone calls if the caller is considered aggressive, abusive or offensive. The employee taking the call has the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop. They will then report this to their immediate line manager.

Where a customer repeatedly contacts the Council, sends irrelevant documents raises issues that have already been answered, we may decide to:

- only take telephone calls from the customer at set times on set days or put an arrangement in place for only one employee to deal with calls or correspondence from the complainant in the future;
- require the customer to make an appointment to see a named employee before visiting the office or that the complainant contacts the office in writing only;
- return the documents to the customers or, in extreme cases, advise the customer that further irrelevant documents will be destroyed;
- take any other action that we consider appropriate. We will, however, always tell the customer what action we are taking and why.

Where a customer continues to correspond on a wide range of issues and this action is considered excessive, then the customer is told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly.

Customer interaction may be considered unreasonably persistent if all internal review mechanisms have been exhausted and the customer continues to dispute the Council's decision relating to their complaint. The customer is told that no future contact will be accepted or interviews granted concerning this complaint. The customer will be advised to contact the Local Government Ombudsman. Any future correspondence which does arrive will be read and filed, but only acknowledged or responded to if the customer provides significant new information relating to their complaint or service request or in fact raises a new separate complaint or service request.

The relevant Head of Service will nominate a single point of contact to manage the process to ensure that any new issues are properly considered and resolved but that matters which have been previously concluded are simply noted.

5. Deciding to Restrict Customer Contact

When a complainant has been deemed vexatious, abusive or unreasonably persistent, the relevant Head of Service will decide on what action to take, following advice from the Corporate Director (Monitoring Officer). The customer will be notified in writing outlining:

- the reason/s why the decision to apply the Policy was taken;
- what it means for his/her future contacts with the Council;
- how long any restrictions will be in place;
- what the customer can do to have the decision reviewed.

This notification must be copied promptly for the information of others already involved, such as Heads of Service, Chief Executive, Leader of the Council and relevant Cabinet Member and Ward Councillors.

Records must be kept, for future reference, of the reasons why the decision has been made to classify individuals as vexatious, abusive or unreasonably persistent and the action taken, as per the Council's Document Retention Policy.

The Council may decide to deal with vexatious, abusive or unreasonably persistent customers in one or more of the following ways:

- Once it is clear that one of the criteria in section 3 (above) has been breached, it may be appropriate to inform the customer, in writing, that they are at risk of being classified as vexatious, abusive or unreasonably persistent. A copy of this Policy should be sent to them and they should be advised to take account of the criteria in any future dealings with the Council and its employees. In some cases, it may be appropriate, at this point, to copy this notification to others involved and suggest that complainants seek advice in taking their complaint further (eg via the Citizens Advice Bureau).
- It may be useful to hold a meeting with the customer to find if there is a more effective way for the correspondence to be dealt with. This may bring to light an underlying, common cause for the various interactions.
- If more than one service is being contacted by an unreasonably persistent customer, the Council will consider a strategy meeting to agree a cross-service approach; and, where appropriate, designating one officer to coordinate future Council's responses to the customer.
- Any new complaints or service requests will be considered on their own merits. However, if new complaints or service requests relate to the same or similar issues previously addressed, it may be appropriate to not investigate these issues further under the Council's Feedback Policy. This should only be undertaken with the agreement of the appropriate Head of Service. The customer should be told this, and there is no need to provide any right of appeal other than to the Local Government Ombudsman. Subsequent contact should then simply be noted.
- The Council can then decline further contact either in person, by telephone, electronically, letter or fax, or any combination of these, provided that one form of contact is maintained. Alternatively, a further contact could be restricted to liaison through a third party, eg in the case of a planning application through an agent.
- The Council will notify customers in writing that the Council has fully responded to the points raised, and have tried to resolve the issues but there is nothing more to add and continuing contact on the matter will serve no useful purpose. This notification should state that correspondence is at an end and that further communications will be noted but not answered.
- Inform customers that, in extreme circumstances, the Council reserves the right to refer vexatious, abusive and unreasonably persistent complaints to the Council's Corporate Director (Monitoring Officer) or if appropriate, the police.

6. Restricting Contact

Any restrictions will be agreed by the relevant Head of Service and will be appropriate and proportionate to the nature of the customer's contacts with the Council at that time. The following is a summary of the types of restriction which may be used:

- Placing time limits on telephone conversations and personal contacts;
- Restricting the number of telephone calls that will be taken (for example one call on one specified morning/afternoon of any week).
- Limiting the customer to one form of contact (e.g. telephone, letter, e-mail).
- Requiring the customer to communicate only with a named employee.
- Requiring any personal contacts to take place in the presence of a witness.
- Closing the investigation into a complaint or service request.
- Refusing to register and process further complaints and providing the customer with acknowledgements only of further letters, emails or faxes received after a particular point.
- Banning a customer from some or all of the Council's premises.
- Involving the police in cases where we believe the customer has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened, or where the customer refuses repeated requests to leave Council premises.
- Seeking a Community Protection Notice (CPN)

7. Withdrawing Restriction

Once a customer has been classified as a vexatious, abusive or unreasonably persistent complainant, there is a mechanism for withdrawing this status if, for example, a more reasonable approach is subsequently demonstrated by the individual.

Officers will already have exercised careful judgement and discussion with the relevant Head of Service in recommending or confirming vexatious, abusive or unreasonably persistent status and similar judgement/discussion will be necessary when recommending that such status should be withdrawn. Where this appears to be the case, discussions will be held with the Corporate Director (Monitoring Officer). Subject to their approval, normal contact and procedures may be resumed. Notification should be sent to the customer via letter or email. In any case all restrictions should be reviewed after being in place for 12 months and this timeframe be conveyed to the person as part of the restriction notification.

APPENDIX A

Examples of Vexatious, Abusive and Unreasonably Persistent Complaints

1. Refusal to specify the grounds of a complaint, despite offers of assistance from Council staff.
2. Refusal to co-operate with the complaints investigation process or insistence on the complaint being dealt with in ways which are incompatible with the corporate complaints procedure
3. Making what appear to be groundless complaints about the employees dealing with the complaints or attempting to use the complaints procedure to pursue a personal vendetta against an employee or team.
4. Making unnecessarily excessive demands on the time and resources of Council staff whilst a complaint is being looked into.
5. Changing the basis of the complaint as the investigation process goes on and/or denying statements he/she made at an earlier stage.
6. Raising at a late stage in the process, significant new information which was in their possession when he/she first submitted a complaint.
7. Introducing trivial or irrelevant new information or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
8. Lodging numbers of complaints/requests for information in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure.
9. Refusal to accept that issues are not within the remit of a complaints procedure or demanding outcomes which the complaint procedure cannot in itself provide such as that overturning of court decisions, dismissal or criminal prosecution of staff or decisions of the Local Government Ombudsman.
10. Electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved.
11. Seeking to coerce, intimidate or threaten staff or other people involved, whether by use of language, tone of voice or behaviour including body language.
12. Submitting repeat complaints essentially about the same issue, which have already been addressed under the Council's Complaints Procedure.
13. Persistence in contacting the Council and demanding responses or action long after the Council has closed the enquiry/investigation into a complaint and all rights of review and appeal have been exhausted.

THE PROTECTED CHARACTERISTICS UNDER THE EQUALITY ACT 2010

Age

Age includes treating someone less favourably for reasons relating to their age (whether young or old).

Disability

A person has a disability if they has a physical or mental impairment which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities.

Race

Race refers to a group of people defined by their race, colour and nationality (including citizenship) ethnic or national origins.

Gender Reassignment

The process of transitioning from one gender to another. Gender Identity refers the way an individual identifies with their own gender, e.g. as being either a man or a woman, or in some cases being neither, which can be different from biological sex.

Marriage and Civil Partnership

Marriage is defined as a 'union between a man and a woman'. Same-sex couples can have their relationships legally recognised as 'civil partnerships'. Civil partners must be treated the same as married couples on a wide range of legal matters.

Pregnancy and Maternity

Pregnancy is the condition of being pregnant or expecting a baby. Maternity refers to the period after the birth, and is linked to maternity leave in the employment context. Protection against maternity discrimination is for 26 weeks after giving birth. This includes treating a woman unfavourably because she is breastfeeding.

Religion and Belief

Religion has the meaning usually given to it but belief includes religious convictions and beliefs including philosophical belief and lack of belief. Generally, a belief should affect your life choices or the way you live, for it to be included in the definition.

Sex (Gender)

A man or a woman. Treating a man or woman less favourably for reasons relating to their sex.

Sexual Orientation

A person's sexual attraction towards their own sex, the opposite sex or more than one sex.