

# The Council's Complaint Policy and Procedure



[www.havering.gov.uk](http://www.havering.gov.uk)

# Contents

PURPOSE .....	3
1. POLICY AND PROCEDURE SUMMARY.....	3
2. SCOPE .....	3
3. TIMESCALES.....	4
4. AIMS AND OBJECTIVES.....	4
5. COMPLAINTS .....	4
5.1 Defining what is and isn't a complaint.....	4
5.2 Who can complain?.....	5
5.3 Support and advocacy.....	5
5.4 Anonymous complaints.....	6
5.5 How can complaints be made?.....	6
5.6 Complaints that fall outside the Council's complaints Policy and Procedure.....	7
5.7 Time limits.....	8
6. THE COMPLAINTS POLICY AND PROCEDURE .....	8
6.1 Stage 1.....	8
6.2 Stage 2.....	9
6.3 Stage 3.....	9
6.4 Acknowledging complaints .....	9
6.5 Responding to a complaint in full .....	10
6.6 Right to escalation.....	10
6.7 Local Government Ombudsman .....	11
6.8 Timescales .....	11
6.9 Extending response timescales.....	11
6.10 Complaints spanning more than one service area.....	12
6.11 Complaints by Members of Parliament and Members on behalf of constituents .....	12
7. RIGHTS AND RESPONSIBILITIES .....	12
7.1 Customer rights.....	12
7.2 Staff rights.....	12
7.3 Responsibilities.....	13
7.4 Unacceptable behaviour by complainants.....	13
8. PERFORMANCE AND MONITORING .....	13
8.1 Performance Targets and indicators.....	14
8.2 Publishing complaints data .....	14
9. RELEVANT LEGISLATION .....	14
9.1 General Data Protection Regulations.....	15
9.2 Freedom of Information.....	15

10. Applicability .....	15
11. Ownership and authorisation.....	15
12. Dissemination and communication.....	15
13. Monitoring and review.....	16
APPENDIX 1 - Unreasonable and Persistent Complainants or Enquirers.....	17

|

## **PURPOSE**

A key determinant of how responsive we are as a Council is ensuring that we have a positive approach to dealing with our residents' and customers' feedback. This approach must be supported by the implementation of a fair, consistent and effective Policy and Procedure for handling complaints. The key areas of this Policy and Procedure are set out including:

- aims and objectives of the complaints Policy and Procedure;
- the stages of the formal complaints Policy and Procedure;
- roles and responsibilities of staff;
- monitoring arrangements; and
- data publication.

The Council strives to find sustainable solutions to the challenges faced by our residents, through the provision of a high standard of customer care. Our approach is driven by the Council's Vision. The primary focus of this Policy and Procedure is to identify potential service improvements and pass on the benefits to our customer.

## **1. POLICY AND PROCEDURE SUMMARY**

This Policy and Procedure defines what constitutes a complaint; who can make a complaint and how to go about it. The various stages of the Council's Policy and Procedure are set out, together with what the customer may expect as a response.

## **2. SCOPE**

This Policy and Procedure deals with complaints that span Council services but excludes complaints made about allocation decisions on housing, Penalty Charge Notices (PCNs); appeals against the refusal of planning applications and complaints about adults' and children's social services, all of which are dealt with by separate procedures. A detailed list of exclusions can be found later in the Policy and Procedure.

This Policy and Procedure does not include Members' enquiries or service requests, which follow a separate route for resolution.

This Policy and Procedure does, however, include complaints from councillors and MPs on behalf of their constituents, ie when the Council has failed to provide a service to a resident that they might reasonably expect.

The differential is in the object of the contact: a service request for a pot hole that is being reported for rectification or an enquiry for consideration of revised road markings against a complaint that the repaired pot hole had not restored the road to an acceptable level or the road marking, once agreed, has failed to materialise.

### **3. TIMESCALES**

This Policy and Procedure sets the framework for continual service improvement based on how the Council responds to complaints.

### **4. AIMS AND OBJECTIVES**

All feedback will be dealt with in a fair, confidential, consistent, effective and timely manner. The objectives of the complaints Policy and Procedure are to:

- achieve complaint resolution at Stage one as far as is possible;
- provide an accessible means for all customers, or their advocates, to complain if they are dissatisfied;
- provide a fair and consistent process for resolving complaints;
- establish timescales for complaint resolution that are met as far as possible;
- facilitate the use of complaint information as a means of monitoring performance and improving services;
- learn lessons to prevent repeat complaints;
- ensure complainants and members of staff have the same rights to be treated with courtesy and respect; and
- ensure that plain English is used when answering customer complaints.

### **5. COMPLAINTS**

#### **5.1 Defining what is and isn't a complaint**

A number of requests received by the Authority at first appear to be complaints. However to deal with them as such will delay the Council's response and not allow those significant issues to be given the time they deserve. Therefore to determine what a complaint is we first need to state what it is not.

#### ***Service Failure***

The Council encourages any customer who has a problem with services that needs a quick resolution (e.g. missed bin collection, streetlight out, pothole to report or repair needed to Council housing etc.) to report it online. These issues are failures in service provision, and can be put right reasonably quickly and are picked up through the Council's web pages on the internet. However, contact about how the service was provided, ie the customer may be unhappy with the way the housing repair has been undertaken, would be deemed as a complaint and dealt with as such or if service requests through the REPORT IT route have failed, eg the bin still hasn't been collected.

### ***Enquiry***

There are other requests that also present as complaints. For example the traffic in a given area may be excessive which prompts a request for new road markings or a change of view on additional housing for that area. Whilst the issue is raised complaining about the traffic, the Council is not responsible for traffic volume but will consider any suggestion that might alleviate it. This is therefore deemed an enquiry.

### ***What is a complaint?***

The Council defines a complaint as any expression of dissatisfaction about the Council's provision of, or failure to provide, a service for which it has responsibility and when it has not put right any service failure in a reasonable timescale.

## **5.2 Who can complain?**

Anyone who uses or is affected by our services can complain. This includes:

- residents;
- customers or service users;
- people who work in or visit the Borough;
- advocates on behalf of the above;
- local businesses;
- community groups;
- Councillors on behalf of their constituents;
- MPs on behalf of their constituents.

## **5.3 Support and advocacy**

Many people feel daunted at the prospect of making a complaint. They may be unsure how to go about it or how best to put their case. The form has been designed to help people to express their dissatisfaction in a way that makes it clear to staff the crux of the problem and what the customer requests as a resolution. By using this framework, it is hoped there will be greater clarity between the customer and the Council to enable a first time response to resolve the issue in the majority of cases.

The Council has a positive approach to complaints. The Council will provide assistance to people who have difficulty accessing or using the complaint form and provide alternative means of making a complaint when required.

The Council will, where appropriate, accept complaints from advocates or third-parties, provided that the person affected has given their written consent.

In some cases, for example children or vulnerable people, if it seems that the person may be unable to give their consent, the Council will make a judgement as to whether it is appropriate to accept the complaint from an unconfirmed representative.

## 5.4 Anonymous complaints

A complaint should not be dismissed if it is submitted anonymously. A judgement will be made on a case by case basis whether to look into the substance of a complaint made anonymously.

## 5.5 How can complaints be made?

We accept complaints:

- via the Council's on-line complaint form;
- by telephone via our call centre staff (if the customer has difficulty accessing or using the complaint form);
- by hard copy completion of the form;
- exceptionally, by letter if the letter contains all the information requested of the complainant on the designated form and are one-off letters from individuals [usually the disadvantaged or elderly residents who would find other routes difficult to access].

As mentioned, the Council's complaint form on the website is designed to support the customer to clearly articulate the nature of the complaint and the redress expected. This is in line with the Council's aim to promote easier access for customers to work with the Council 24-hours a day and is designed to support staff to resolve the complaint at the first point of contact. It also enables the Council to capture in one place a picture of the feedback on the Council's services to provide data for review and to feed into lessons learned for service improvement.

The culture of our society suggests an expectation of instantaneous response. Whilst emails are a quick means of communication, they are not always so well thought out as completing a tailored form that enables the customer to give thought to the crux of the matter and what resolution they are looking for, or the discipline of writing a letter. Emails are often used to express how the incident has made the customer feel and followed up whilst the service is looking into what may be done as a resolution. Multiple exchanges of emails not allowing the service the opportunity to investigate fully only exacerbate ill-feeling and detract from the service resolution. Therefore e mails will not be accepted as a vehicle for conveying a complaint or for continuing through complaint stages. Following the initial response, should the complainant wish to escalate the complaint, any subsequent stages will follow the route of the Council's Stage 2 on-line complaint resolution form.

## 5.6 Complaints that fall outside the Council's Complaints Policy and Procedure

Certain types of complaint will not be dealt with through the Council's Complaints Policy and Procedure because there are other processes more suitable for dealing with them, or because they are outside the Council's control. This includes:

- matters of law or central government procedure;
- complaints from staff about personnel matters, including appointments, dismissals, pay, pensions and discipline;
- complaints where the customer or the Council has started (not threatened) legal proceedings;
- complaints about the merits of an insurance claim, or matters that would be more appropriately considered by an insurer;
- complaints under statutory obligations (e.g. children and adults social care);
- requests for Council services;
- complaints that have already been decided by a court, independent tribunal, Local Government and Social Care Ombudsman or Housing Ombudsman ruling;
- complaints that are simply criticisms or disagreement with the Council's Policy and Procedure or decisions;
- services for which there are alternative statutory appeal or tribunal processes, including:
  - appeals against housing allocation decisions;
  - appeals against the refusal of planning permission;
  - appeals against Statutory Notices;
  - appeals against Penalty Charge Notices (PCNs) or Moving Traffic Contraventions (MTCs);
  - school admission or exclusion appeals;
  - Special Educational Needs Tribunals;
  - Housing Benefit appeals;
  - appeals against business rate assessment.

If there is any doubt about whether the complaint should be accepted, the customer should be advised to submit the complaint to the Council for consideration.

If the Council receives a complaint and decides not to accept it on the above grounds, the customer will be told why and, where possible, an alternative route suggested.



## 5.7 Time limits

It is far easier to find out what happened and to put things right if complaints are received at the time. As time passes it becomes more difficult to investigate events fairly and fully – people's memories fade, staff who were closely involved may have left the Council, or records may no longer be available.

For these reasons, the Council will normally only accept complaints made within twelve months of the incident that led to the complaint. However, if exceptional circumstances are provided by the complainant for the delay in submitting the complaint, the Council may make a discretionary decision to consider the complaint providing supporting evidence is received.

If the Council receives a complaint and decides not to accept it on the above grounds the customer should be told why.

## 6. THE COMPLAINTS POLICY AND PROCEDURE

The Council should seek to resolve complaints at the earliest opportunity. Where possible, prior to implementing the formal complaints Policy and Procedure, every attempt should be made to deal with issues quickly and informally, at the point of service delivery.

Some complaints received by the Council have to be dealt with under a statutory process and will not follow the steps set out below; these complaints normally concern the delivery of adult's or children's social care services.

### 6.1 Stage 1

If a concern cannot be resolved to a customer's satisfaction at the point of service delivery, or if the customer wishes to make a complaint in any event, a formal complaint must be recorded.

The Council will nominate an appropriate officer to respond to the complaint at this stage; the appointment should take into account the seriousness and the nature of the complaint. An officer, against whom a complaint is personally directed, should not respond to a complaint. If the complaint concerns the service manager, a more senior manager should respond.

Complaints should be acknowledged within three working days (via email if in response to the completed web form or letter in response to a letter), and a full written reply sent within 10 working days.

The Council's aim is to resolve as many complaints as possible to the customer's satisfaction at this stage. This means that responses must be open and honest, admitting fault when things have gone wrong and setting out a package of measures to put things right which does not necessarily mean an acceptance of liability.

## 6.2 Stage 2

If the customer is dissatisfied with the outcome of the Stage 1 investigation, there is opportunity to request the complaint be reviewed by the Chief Executive, which is Stage 2 of the Complaints Policy and Procedure.

A request should be made through the Stage 2 on-line complaint form stating clearly why the complaint hasn't been dealt with to the customer's satisfaction and what is expected by way of redress.

The request should be acknowledged within three working days and a full written reply sent within 25 working days.

If the decision is taken, by the Chief Executive, not to escalate the complaint to Stage 2 of the Policy and Procedure, the customer will be advised the reason for this and that they have exhausted the Council's process and details of the Local Government Ombudsman and Social Care Ombudsman or Housing Ombudsman will be given.

## 6.3 Stage 3

If the customer is dissatisfied with the outcome of the Stage 2 investigation, they may request the complaint be reviewed by members of the Adjudication and Review Committee. An informal Member Review Panel will be arranged to determine whether the case can be decided at that point or whether a full hearing should be conveyed.

Escalation to Stage 3 of the process is not automatic; the decision on escalation will be taken by the Chair of the Adjudication and Review Committee.

The clear expectation of the customer is sought on the Stage 3 complaint form and what redress is expected. This request will be acknowledged and if a Member Review Panel has heard the case, a full written reply sent within 30 working days.

The customer will be made aware at the conclusion of Stage 3 that the complaint has exhausted the Council's complaints Policy and Procedure and be given the contact details of the Local Government and Social Care Ombudsman or Housing Ombudsman, where they may further escalate the complaint, if desired.

## 6.4 Acknowledging complaints

All acknowledgements should be sent within three working days and include:

- a reference (ENQ) number;
- a brief summary of the complaint as the Council understands it;
- the "no later than" date a response should be provided to the customer;
- contact details of the sender;
- a link to the Council's website where the full Policy and Procedure may be found.

## 6.5 Responding to a complaint in full

All complaints will be responded to within the deadline for each stage. Stage 1 is ten working days and Stage 2 twenty five days. Responses will be clear and concise; honest and accurate; professional and courteous; jargon free, in plain English; and free from spelling and grammatical errors.

All responses to complaints which are upheld or partially upheld should give :

- an explanation of what happened and why things went wrong;
- an apology for service failures;
- details of the corrective action to be taken;
- the redress expected by the customer for the failure or explanation why this isn't appropriate;
- clear instructions about anything the customer needs to do;
- the name of the officer responsible for ensuring that action is taken and their contact details;
- the timescale within which the action will be taken;
- where appropriate, details of the measures to be taken to prevent a recurrence of the problem;

Where a complaint is not upheld the response should provide:

- background information relevant to the complaint;
- an explanation of the decision;
- a link to our website where the complaints Policy and Procedure is found.

## 6.6 Right to escalation

The customer has the right to request the complaint be escalated if they remain dissatisfied. The customer will need to:

- (a) complete the Stage 2 form providing details of **why** they remain dissatisfied; and
- (b) indicate what they would like the Council to do to put the matter right'
- (c) submit the response within **30 working days** from the date of the full response. .

If a customer continues to express their dissatisfaction, but does not provide specific reasons as to why they are not satisfied by the Council's response, in some circumstances the complaint will not be escalated to the next stage. This process is used to ensure that complaints are only escalated when necessary and not just because a complainant continues to express their dissatisfaction. For example, when a customer does not agree with the outcome of the complaint but can provide no further evidence to support their complaint. The decision on whether to escalate or not, is taken by the "owner" of the next stage in the Policy and Procedure, i.e. the

Chief Executive for Stage 2 or the Chair of Adjudication and Review Committee for Stage 3 and will be explained clearly to the customer.

If the customer remains dissatisfied following the response to a Stage 2 complaint they will need to:

- a) complete the Stage 3 form providing details of **why** they remain dissatisfied; and
- b) what they would like to achieve as an outcome from a Member Review Panel;
- c) submit the response within **30 working days** of the date of the full response letter.

## **6.7 Local Government and Social Care Ombudsman and the Housing Ombudsman**

The Local Government and Social Care Ombudsman and the Housing Ombudsman consider complaints about public bodies, including local authorities. The Ombudsman investigates complaints about: poor service; failure to provide a service and administrative failure. The Housing Ombudsman's primary role is as a mediator between landlord and tenant.

In most cases, the Ombudsman will normally only consider complaints if the issues of concern have exhausted the stages of the Council's own Complaints Policy and Procedure. However, the Ombudsman has discretion to investigate a complaint prior to the Council conducting its own investigation.

The relevant Director, Assistant Director and Chief Executive will be notified of any complaint that is being considered by an Ombudsman, as soon as the Council is notified.

## **6.8 Timescales**

The timescales for response are illustrated below:

Acknowledgements:	3 working days maximum
Stage 1:	10 working days
Stage 2:	25 working days
Stage 3:	30 working days

The timescales start from the date the complaint was received **by the Council**, not by the department against which the complaint is made, if this is later.

## **6.9 Extending response timescales**

The Council always tries to keep to our published timescales for dealing with complaints. Sometimes investigations take longer, perhaps because of the need to get information or the complaint is unusually complex.

In certain cases, when a complaint is complex, it may be necessary to extend the timescales set out in this Policy and Procedure. If this is the case, the complainant **must** be informed of the reason why timescales cannot be met and also informed

when they should receive a full response. These exceptions should be authorised by a Group Manager or Assistant Director at Stage 1 or Chief Executive at Stage 2. Notification should be sent to the customer at the first possible opportunity.

### **6.10 Complaints spanning more than one service area**

In the event that a complaint involves more than one service, a co-ordinated single response will be sent to the customer by the lead service determined by the largest portion or most serious aspect of the complaint.

The customer will be informed which service will be responding to them on behalf of the Council in the acknowledgement to their complaint.

This is also the case when a complaint spans more than one agency, ie Health and Social Services.

### **6.11 Complaints by Members of Parliament and Councillors on behalf of constituents**

Complaints on behalf of constituents are dealt with under this Policy and Procedure. There is a separate process for dealing with service requests and enquiries from MPs and Members of the Council. Complaints raised by Councillors and MPs on behalf of their constituents will be raised in the normal way with the response being made to the originator, where appropriate, or if the nature of the complaint is personal the response will be directed back to the customer with the Councillor or MP, apprised that a response has been sent.

## **7. RIGHTS AND RESPONSIBILITIES**

### **7.1 Customer rights**

Our customers have the right to:

- be treated with respect and courtesy at all times;
- have a friend or other representative help them with their complaint, provided the relevant authority has been provided to the Council;
- be kept informed about the progress of their complaint(s); and
- receive an apology if a complaint is partially or fully upheld.

### **7.2 Staff rights**

Our staff have the right to:

- be treated with respect and courtesy at all times;
- time to respond to the initial complaint before receiving any follow up issue; and

- support and training that enables them to handle and resolve complaints in an efficient and empathetic manner.

### **7.3 Responsibilities**

The Council's priority is for the effective handling of complaints at, or as close to, frontline staff as possible, or by a local manager. Receiving complaints is a means to gauge how well Council services are performing and how we may make improvements. The effective handling of complaints is crucial to maintain the Council's reputation and to make good use of customer feedback. As such, staff will receive the necessary support and guidance to provide good customer service and to handle complaints with empathy and professionalism.

### **7.4 Unacceptable behaviour by complainants**

People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint coming into the Council.

As a Council we do not view behaviour as unacceptable just because a claimant is forceful or determined, however the actions of complainants who are angry, demanding, persistent or rude may result in unreasonable demands on the Council and unacceptable behaviour towards the Council's staff. In tandem with the Council's responsibility to provide services is the duty of care towards its staff.

In such exceptional circumstances, the Council has the right to specify how the individual complaint will be handled and how future contact from the complainant will be permitted. A separate procedure on handling Unreasonably and Persistent Complainants and Vexatious Information Requests details how and under what circumstances complaints will not be answered. This is attached to this Policy and Procedure as Appendix 1.

## **8. PERFORMANCE AND MONITORING**

The following information will be captured, where possible, on the Council's complaint management system, for every complaint:

- date of receipt;
- name, address and contact details of the customer;
- a copy of the acknowledgement and all other documents as they are sent;
- notes of all contact with the customer;
- details of the resolution (if a closing letter is not appropriate);
- closing date.

This information will be captured at each stage of the complaint and it is the responsibility of the officer dealing with each stage to ensure the records are complete and up-to-date.

This will be used to produce management information to monitor service performance, highlight areas of service failure and gaps in provision and feed into the processes for identifying areas for service improvement.

The information will be reported, in the appropriate format, to a range of key stakeholders within the Council against their targets.

### 8.1 Performance Targets and indicators

The performance targets for the Council’s complaints process are illustrated below:

	Frequency			Who reported to		TARGET
	Monthly	Quarterly	Annually	Staff	Members	
Number of complaints received	√	√	√	√	√	
% of Stage 1 corporate complaints completed within 10 days	√	√	√	√	√	95%
% of Stage 2 corporate complaints completed within 25 days	√	√	√	√	√	95%
%age escalated to Stage 2		√	√		√	<10%
%age escalated to Stage 3 (from S2)		√	√		√	<20%
% of Stage 3 corporate complaints completed within 30 working days	√	√	√	√	√	95%
Finding of the various Ombudsman investigations (in brief)		√	√		√	

In addition, an annual report on the Council’s performance on complaint handling will be available on the Council’s website.

### 8.2 Publishing complaints data

The Complaint Policy and Procedure is published on the Council’s website and in leaflets. All publicity materials for the Policy and Procedure will be presented in plain English and made available in other languages and formats upon request.

The Council’s performance on complaints is published quarterly in reports to Adjudication & Review Committee, which are public documents available on the Council’s website.

## 9. RELEVANT LEGISLATION

There are a number of key areas of legislation that the Council must adhere to in the course of dealing with complaints.

## **9.1 General Data Protection Regulations**

The General Data Protection Regulations provides protection for personal information and customer's ability to access the information held about them, the general principles are:

- that information held will be processed fairly, lawfully and in a transparent manner;
- that information is collected for specific, explicit and legitimate purposes;
- that information is adequate, relevant and limited to what is necessary;
- that information held is accurate and where necessary, kept up to date;
- that information is retained for only as long as necessary
- that information is processed securely, protected against unlawful or unauthorised processing and against accident loss, destruction or damage.

The Council will ensure that the principles of the General Data Protection Regulations are adhered to.

## **9.2 Freedom of Information**

The Freedom of Information Act 2000 gives people the right to access information held by public authorities. The Act ensures that, subject to certain limited exemptions, anyone can receive information that they request from a public authority. The Council is committed to the principles of openness, transparency and accountability in its activities and supports the right of any person to seek information under the Act.

## **10. Applicability**

This Policy and Procedure is applicable to customers, residents, businesses, Councillors (on behalf of their constituents) and MPs (on behalf of their constituents). It is also relevant to all Council employees who may receive a complaint about their service by the community or a member of staff.

## **11. Ownership and authorisation**

The Policy and Procedure is led by the Chief Executive's office. The authorising body is the Senior Leadership Team, Leader of the Council, Lead Member for Customer Services and with engagement from the Chair of Adjudication and Review Committee and the Chair of Overview and Scrutiny Committee.

## **12. Dissemination and communication**

The Policy and Procedure is published on the Council's website and disseminated to staff through Management Teams, the Council's Core Brief mechanism and the Forum of Complaint Owners. Regular meetings of complaint owners will take place to update and apprise staff on good practice and to ensure continued focus on customer care and quality of complaint responses.



### **13. Monitoring and review**

This Policy and Procedure will be reviewed every three years by the Chief Executive's office. This will consider the quality of Council responses, percentage of complaints resolved within timescale, percentage of those escalated through the Policy and Procedure and how complaints are received and dealt with by services.

October 2018

## Procedure for dealing with Unreasonably Persistent Complainants and Vexatious Information Requests

### Introduction

The Council's Corporate Complaint Policy and Procedure aims to provide our customers with a fair, objective and consistent process that will resolve complaints as quickly as possible. If customers remain dissatisfied with the outcome they can appeal against our decision and take matters further. However, the Council also has an obligation to use resources efficiently and effectively and there may be occasions when senior management decide that a complainant is demonstrating behaviour which is unreasonably persistent or unacceptable. The Council also has a duty of care for its staff.

There are also occasions when requests for information may be considered vexatious because they are repeated for no good reason or cause undue time commitment and stress on Council resources, for little purpose.

### Purpose of this procedure

The purpose of this procedure is to:

- Define and explain what we consider to be unreasonable customer behaviour and an unreasonably persistent complainant
- Define and explain what we consider to be vexatious requests for information
- Explain the process to follow when dealing with unreasonable behaviour and vexatious requests for information.

### What is unreasonable customer behaviour?

The Council defines unreasonable behaviour as:

Unreasonable and unreasonably persistent complainants may be justified in

“Behaviour which, because of the nature or frequency of a customer’s contact with the Council, negatively impacts on our ability to deal effectively with their or other people’s complaints.”

complaining or have a genuine grievance but be pursuing them in inappropriate

ways, or they may be intent on pursuing complaints which appear to have no substance, or which have already been investigated and determined. Their contact with the Council may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all.

Behaviour which may lead to a complaint being considered as unreasonable may include some of the issues listed below (although this list is not exhaustive):

- a) Refusing to specify the grounds for their complaint; offering evidential information to support the complaint which is not then provided, or changing the substance of the complaint whilst the complaint is under investigation;
- b) Periodically writing lengthy scripts with legal or technical quotes but without adequately explaining in plain language what the customer expects as an outcome and refusing to clarify on request;
- c) Withholding evidence for substantiating a complaint at early stages in the procedure that are later produced when the complaint is accepted for escalation or review;
- d) Introducing irrelevant or trivial issues into the complaint or raising a large number of detailed but unimportant questions and insisting they are answered in detail;
- e) Refusing to accept that aspects of the complaint are not within scope of the procedure (for example when another route, such as an appeal process, is open to them) or insisting complaints are dealt with in ways not compatible with the complaints procedure;
- f) Refusing to co-operate with the complaints investigation whilst still wishing their complaint to be resolved;
- g) Making unsupported complaints against staff dealing with the complaint and asking for them to be replaced or a more senior officer deal with the complaint;
- h) Pursing complaints through a "scatter-gun" approach, contacting different staff about the same or similar issues, including engaging councillors, Members of Parliament etc. in addition to their contact with the Council when the complaints procedure is being enacted;
- i) Making unnecessary demands on staff time by excessive contact by e mail, telephone, through members of staff or lengthy complex letters requiring an immediate response;
- j) Submitting repeated requests, during or after the process has been completed, about the same or very similar issues;
- k) Persistent contact about issues which are not service failure but which cause concern and for which the Council has acted appropriately. For example persistent fly tipping or parking problems where the Council has explained what action is and will be taken although may not be completely eradicating or resolving the issue;
- l) Denying receiving an adequate response because the answer is not what the customer wants;
- m) Refusing to engage with the Council through on-line means despite having the ability and knowledge to do so but to persistently e mail many staff on differing minor matters that causes maximum contact and disruption to their daily duties;
- n) Being abusive, insulting, aggressive or personally derogatory about staff.

### **What is a vexatious request?**

It is important to remember that section 14(1) of the Freedom of Information Act which relates to vexatious requests can only be applied to the request itself, not the individual who submits it. The Council has determined that this approach should be applied to all requests for information, whether or not it has come through the FOI route. Council officers cannot, therefore, refuse a request on the grounds that the requestor himself/herself is considered to be 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.

The Council defines a vexatious request as being:

A vexatious request may include one or two individual requests for information, or

“A request that is likely to cause distress, disruption or irritation, without any proper or justified cause.”

may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute (potentially as part of the Council’s Corporate Complaints procedure) or is the latest in a lengthy series of overlapping requests.

However the Council will not automatically refuse a request simply because it is made in the context of a dispute: each request will be considered on its own merit. The Council will ensure we consider whether the request, not the requestor, is vexatious with our focus ultimately on their right to know the information requested.

Where a request is considered vexatious the Council may make the decision not to provide the information referring to the relevant guidance from the Information Commissioner on vexatious requests.

### **Examples of vexatious information requests**

The list below is not exhaustive and it is likely that more than one example is needed to justify consideration as vexatious.

- a) Submission of obsessive requests with very high volume and frequency of correspondence;
- b) Requests for information the requestor has already seen or clear intention to re-open issues that have already been considered;

- c) Where complying with the request would impose significant burden on the Council and negatively impact on our service to others. For example when considerable time has been given responding to requests for information by way of the Corporate Complaints procedure and a subsequent request would exceed the appropriate time limit (section 12 exemption to the Freedom of Information Act);
- d) Where the requestor states the purpose is to cause maximum inconvenience for a perceived grievance;
- e) Where the request lacks any serious purpose or value;
- f) Harassing the Council. This could include very high volume and frequency of correspondence or mingling requests with accusations and complaints.

### **Resolving and managing unreasonably persistent complainants and vexatious information requests**

Where officers identify that they may be dealing with an unreasonably persistent complainant and / or vexatious requests for information, they should consider the following courses of action in the first instance:

1. Writing to the complainant requiring them to only make contact through a third party, for example an advocate, solicitor or friend acting on their behalf;
2. Writing to the complainant placing limits on the number or contacts with staff;
3. Writing to the complainant offering a restricted time slot for any necessary calls;
4. Writing to the complainant limiting them access to one contact person and/or one method of contact;
5. Consider the totality of the customer's contact with the Council on the subject – including the numbers and scope of any Freedom of Information requests.

If the above possible actions are believed to be pointless or counterproductive, or they do not improve the situation if they are enacted and if the officer believes the complainant is continuing to act in an unreasonably persistent or vexatious manner, the officer should refer the case to their Assistant Director in the first instance. If the Assistant Director believes that the complainant is not behaving in an unreasonably persistent manner or has not submitted a vexatious information request, the officer will be advised of this and should continue to consider the complaint in line with the Council's procedures and legislation. If the Assistant Director believes the complainant is behaving in an unreasonably persistent way or has submitted a vexatious information request they should refer the matter to a member of the Senior Leadership Team through the Chief Executive's office. This office will determine whether:

1. The complaint is being, or has been handled effectively;
2. The Council's procedures have been followed;
3. The decisions reached are considered to be the right ones;
4. All issues raised have been addressed;
5. Communication with the complainant has been appropriate and adequate;

6. The complainant is not now providing any significant new information that might affect the Council's view on the complaint.

If satisfied on these points, consideration will first be given to whether there are still avenues open to resolve the complaint. For example:

- If the complainant has contacted more than one service area, consider a strategy meeting to understand the breadth of the issues and agree a joint approach;
- Has a meeting been considered with the complainant with an officer of sufficient seniority?
- Could the complainant have special needs that may need the engagement of an advocate or support by other Council services.

If the above avenues have already been explored or are not open to resolve the complaint and the Chief Executive's office determine that the Assistant Director and / or relevant officer cannot take any further action, the office will then determine if, in their view, the behaviour of the complainant is unreasonably persistent and / or vexatious.

The Chief Executive's office will inform the Assistant Director and the officer of their decision and if it is confirmed that the complainant has been acting in an unreasonably persistent or vexatious manner the officer will be advised of one of the following actions to take:

1. Write to the complainant to warn them that if they persist with their unreasonable behaviour **and / or submitting vexatious information requests**, the Council may not respond to them on this subject in the future;
2. Write to the complainant confirming that any future correspondence on the matter will not be answered **and** the Council will no longer respond to him or her on the issues raised in their complaint(s) **and/or requests for information**.
3. No longer respond to the complainant on that, or similar issues.

When the relevant officer informs any complainant who has been determined to be behaving in an unreasonably persistent or vexatious manner – see points (i) and (ii) above - they should also advise the complainant they have a right of appeal against this determination and that they should write to the Chief Executive's office within 10 days to lodge that appeal.

Any appeals submitted by a complainant should be considered by a member of the Senior Leadership Team who will make a final decision. That decision will be reported back to the officer and communicated to the complainant by the Chief Executive's office within 28 days. Sometimes complainants use the access to information route through a Freedom of Information Act (FOI) or General Data Protection Regulations (GDPR) request. This avenue may be used by the minority to cause maximum disruption to the Council with little purpose other than to demand attention, because of a perceived or real grievance. Whilst the Council has a duty to

be transparent and provide information, it also has a duty of care to its staff and to other customers for service delivery. Both of these issues need to be fully considered prior to any action. This procedure, therefore, covers both complaints and requests for information through the FOI or GDPR route.

### **Considerations before acting**

The Council recognises that the decision to classify someone's behaviour as persistently unreasonable or to classify a request as vexatious could have serious consequences for the individual, including restricting access to services.

Before deciding to apply any restrictions, the Council will ensure that:

- The complaint or request for information has been dealt with properly and is in line with the relevant procedures and/or statutory guidelines;
- Every reasonable effort has been made to satisfy the request or resolve the complaint.

### **Review**

When restrictions are in place, a review date will be set based on the circumstances of the case. The relevant Head of Service will consider whether the restrictions remain in place following the date of the review.

### **New Complaints or Requests**

The Council will not ignore a complaint or service request from customers who has been classified as unreasonably persistent or vexatious.

New complaints or requests will be considered on their own merits and not be influenced by previous knowledge of the customer.

### **Referring cases to the Local Government and Social Care Ombudsman and Information Commissioner's Office**

There may be circumstances where the relationship between the Council and complainant / customer has broken down to such an extent that resolution is not possible. In these circumstances it may be helpful to bring closure by referring the matter to either the Local Government and Social Care Ombudsman or the Information Commissioner's Office. Under these circumstances the Council will write to both the governing body and the complainant customer explaining our decision. It would be entirely at the discretion of the Local Government and Social Care Ombudsman or the Information Commissioner's Office whether or not to accept any referral.

### **Record Keeping**

Records of decisions taken and the reasons for those decisions should be kept updated and be transparent to those individuals who have been classified as unreasonably persistent or vexatious. The records should be held within the Senior Leadership Team Support office and include:

- The name and address of the complainant / customer;
- Details of each information request that is classified vexatious;
- A summary of the complaint for which the complainant / customer was deemed unreasonably persistent;
- What restrictions have been put in place;
- When the restrictions are due for review and by whom.

The Council's Customer Relationship Management (CRM) system that manages complaints will have an indicator added to the relevant customer record to indicate that the individual has been classified as unreasonably persistent or vexatious. The record will be updated in line with any review carried out on the restrictions.

A copy of this procedure will be made available to any complainant customer who is classified as unreasonably persistent or whose request for information is deemed vexatious.

4<sup>th</sup> January 2016