

Management of unreasonable customer behaviour policy



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Introduction

Oxfordshire County Council wants to hear from you if you have a complaint about our services. The council values all feedback whether good or bad as an opportunity to improve the way we serve the people of Oxfordshire and complaints information can be found [here](#)

Unfortunately, in a minority of cases people pursue their complaints or requests for information in a way that is unreasonable. Sometimes this can have a negative impact on the handling of their complaint or request. It can also have a significant impact on our resources and on our ability to provide services to our other customers.

In certain circumstances these contacts or complaints may be considered by the council to be vexatious, prolific or persistent. This policy outlines the way in which such issues should be managed as a matter of good practice.

Where a customer's behaviour is so extreme that it threatens the immediate health, safety or welfare of council employees, or employees working on the council's behalf, the council will consider its options, which may include for example reporting the matter to the police or taking legal action. In such cases, the council may not give the customer prior warning of that action.

The council takes a zero tolerance approach to discrimination on the grounds of age, race, disability, sex, sexual orientation, gender identity, gender expression, religion or belief, marriage or civil partnership or pregnancy and maternity. If the council believes this has occurred then the following steps will be taken:

- If an informal resolution cannot be reached, the council will take formal action if appropriate
- Officer concerns will be assessed independently and determined by Customer Feedback team
- Inform an individual that a right of appeal process is in place

Purpose

The policy seeks to:

- Define unreasonable customer behaviour.
- Define vexatious requests.
- Explain the process we will follow when dealing with customers who behave in an unreasonable way so that everyone knows what they can expect.
- Explain the process we will follow when dealing with vexatious requests so that everyone knows what they can expect.

While the policy is about identifying and dealing with unreasonable behaviour, we need to ensure that:

1. Customers who prolifically contact the council without specifically making a complaint have their concerns reviewed by the most appropriate officer(s) and do not waste time and resources where they cannot be assisted.

2. We avoid perpetuating correspondence which is time-consuming and not helpful to the customer.
3. We provide a mechanism for a customer who is vexatious, persistent or prolific and unreasonable to have their concern(s) reviewed in a structured way.
4. We try to avoid a customer persisting in contacting staff who are unable to help with their concern(s).
5. We identify complaints which may be symptomatic of a customer's behavioural issues or of a specific illness that could require specialised help.
6. All customers are treated equitably and on an individual basis.
7. No-one is prevented from complaining via the council's complaints processes to raise legitimate concerns.
8. Individuals' needs are considered when deciding on a suitable approach to dealing with their complaints or contacts. This may include making a safeguarding referral if we are concerned for an individual's welfare. For more information about safeguarding please see this [webpage](#)

What is unreasonable customer behaviour?

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. We differentiate between "persistent" customers and "unreasonably persistent" customers.

In defining unreasonable behaviour, the council has taken into account the Local Government and Social Care Ombudsman (LGSCO) definition of unreasonable behaviour. Namely, ***"unreasonable and unreasonably persistent customers are those customers who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints"***.

The net effect of the unreasonable behaviour of a customer is sometimes to cause harassment or alarm and other times it undermines the ability of the council to deliver a fair service to others. The council has a duty to protect its staff, contractors, elected members and its service provision to all its customers.

Examples of unreasonable customer behaviour

Examples of what we might consider to be unreasonable behaviour are shown below. The list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being 'unreasonable' in this category:

- Use of hostile, abusive or offensive language causing distress to staff or an unreasonable fixation on an individual member of staff including via social media channels
- Making unjustified complaints about staff who are trying to deal with the issue.
- Physical intimidation, threats of or acts of violence towards staff
- Refusing to specify the grounds of a complaint, despite offers of assistance.
- Changing the basis of the complaint/request as the matter proceeds.
- Denying or changing statements made at an earlier stage.
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.
- Persistently approaching the council through different routes about the same issue.
- Persistently seeking an outcome which the council has already explained is unrealistic for policy, legal or other valid reasons.
- Refusing to co-operate with the complaints investigation process.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Raising numerous, detailed but unimportant questions; insisting they are all answered.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of organisations.

Action we may take

We will take the following factors into consideration before determining whether a customer's behaviour is unreasonable:

- If a customer/customer has been personally abusive, aggressive or provocative to staff in correspondence, by telephone or face to face or via social media there may be grounds to classify them as vexatious.
- If the customer is considered vexatious, alternative communication methods can be discussed but if the customer continues to be vexatious, communication about the relevant matter will cease.
- This could also include the fact that the customer continues to make contact after being advised that the issues they have raised are not the responsibility of the council and having been sign-posted to the correct agency.
- There are no hard and fast 'rules' for identifying what language or behaviour constitutes 'vexatious' and each case should be reviewed

individually.

The council is committed to using trauma informed practice and consideration will also be given to the circumstances surrounding the incident and any factor that may have contributed to the behaviour, for example:

- access difficulties due to disability
- communication difficulties and neurodiverse needs
- language problems
- frustration as a result of a genuine mistake made by the council, poor service or just having to wait to be seen
- personal factors such as bereavement, separation or illness
- influence of medication, drugs or alcohol.

What is a vexatious request?

We define a vexatious request as: *“A request that is likely to cause distress, disruption or irritation, without any proper or justified cause” or something that is “manifestly unjustified, inappropriate or improper use of a formal procedure.”*

In defining a vexatious request, the council has also adopted the Information Commissioner Office’s guidance on “vexatious and repeated request”. Namely, ***“Deciding whether a request is vexatious is a flexible balancing exercise, taking into account all the circumstances of the case. There is no rigid test or definition, and it will often be easy to recognise. The key question is whether the request is likely to cause distress, disruption or irritation, without any proper of justified cause”.***

We will consider each request for information on its own merits. We will ensure that we consider whether the request (and not the requester) is vexatious, with our focus being on the request itself. The Freedom of Information Act 2000 gives rights of public access to information held by public authorities. However, Section 14(1) of the Act protects public authorities from those who might abuse the right to request information. If a request is vexatious or repeated, we do not have to provide any information, or confirm or deny whether we hold it (however we will issue a refusal notice).

Examples of vexatious behaviour

The list below is not exhaustive, and for a request to be considered as vexatious it is likely that more than one of the examples is relevant:

- Submitting repeat complaints with minor additions/variations that the customer insists make these ‘new’ complaints.
- The request is obsessive in nature e.g. a high volume of requests, using requests to open matters that have already been dealt with such as complaints and appeals.
- Requests for information the requester has already seen, or clear intention to reopen issues that have already been considered
- Where complying with the request would impose significant burden on the council in terms of expense, and negatively impact the council’s ability to

provide service to others. In this situation the council will consider section 12 (exemption where cost exceeds the appropriate limit) of the Freedom of Information Act.

- The request does not serve a serious purpose.
- The request has the effect of harassing the council or distressing staff e.g. use of derogatory language, mixing a request with complaints and accusations

The process for dealing with unreasonable behaviour and vexatious requests

This section of the policy outlines the steps the council may take when dealing with a customer who is behaving unreasonably so that everyone knows what they can expect.

Stage 1 - Before action is taken:

Staff who have been dealing with someone's request will refer the case to the Council's Customer Feedback team if they have not previously been engaged in order to determine whether the behaviour can be classified as unreasonable or if a request is vexatious.

We recognise that the decision to classify someone's behaviour as unreasonable, or to classify a request for information as vexatious, could have serious consequences for the individual, including restricting their access to services.

Before deciding to apply any restrictions, we will ensure that:

- The original complaint or request for information has been dealt with properly and in line with the relevant procedures and statutory guidelines and
- We have made every effort to satisfy the request or resolve the issue/complaint.

However, where our efforts to resolve matters with the customer have not been successful, we may close the case or request. Where appropriate we will advise the customer to contact the Local Government and Social Care Ombudsman or the Information Commissioners Office. We will advise the customer that we will no longer enter into any correspondence about such cases, unless material new information becomes available.

Stage 2 - Action to take when dealing with unreasonable behaviour:

- A customer is reported to the Customer Feedback team by any officer as potentially unreasonable. At this point it is likely that the officer will provide a log of contacts and details of interactions to the Customer Feedback Team.
- The Customer Feedback team uses the policy to review the behaviour and any evidence to prepare a proposal for a decision to be made and action plan agreed.
- This decision and action plan is signed off by the Director for Customer and

Cultural Services (or their appointed deputy) and/or the Monitoring Officer (or their appointed deputy) if required

- The customer, relevant staff and members are notified of the arrangements made for future contact by the appropriate Corporate Director. This letter will be drafted by the Customer Feedback team detailed below.
- Future contact is managed using the action plan agreed.
- The action plan is reviewed by the Customer Feedback Team and appropriate Corporate Director after a specified time period (usually every three months but this may be up to six months, depending on the nature of the request) and the customer, relevant staff and members are notified of the outcome and any changes to how their future contact will be managed.
- If the action plan appears to have had no impact on the amount of unnecessary contact then it is recommended that it is renewed for a further period and that the customer is notified of this fact. This is also an opportunity to explore other options to manage the contact more effectively.

Notifying the customer of the decision and onward management of their case

A letter will be drafted by the Customer Feedback Team to the customer setting out:

- a) The reasons why the customer has been judged to be persistent/ prolific/vexatious
- b) The key elements of the proposed future management of representations including (but not limited to):
 - i. The setting up of a single point of contact if required. This may include an email address, dedicated postal address or answerphone to collate correspondence from the customer
 - ii. Pointing out that abusive behaviour will now trigger the council's harassment policy
 - iii. The reference number of a complaint which has reached the Local Government and Social Care Ombudsman (LGSCO) stage (if relevant).
- c) The fact that the council can reserve the right not to respond if the proposed future management of representations is not followed.
- d) The fact that the customer is not prohibited from raising other valid complaints which will be investigated fully or provides new information regarding an existing case

This letter will be signed and sent by the Director of Customer and Cultural Experience.

A copy of the notification letter and action plan will be retained on file. All relevant staff will be notified of any actions they are required to take in the future – such as logging calls, terminating calls which are not in line with agreed restrictions or

not discussing the case, etc.

Right of Appeal

A customer can request an appeal of a decision. An appeal must be made in writing to the Director of Customer and Cultural Experience, who will review the appeal in conjunction with the Council's Monitoring Officer (or appointed deputy) if appropriate and in consultation with relevant service area managers.

A right of appeal can be made via email (spoc@oxfordshire.gov.uk) or by post to the Director of Customer and Cultural Experience, Oxfordshire County Council, County Hall, New Road, Oxford, OX1 1AY.

The appeal should set out the reasons why they feel the decision to restrict access should not be implemented. The appropriate Corporate Director (or appointed deputy) will review the appeal and decide whether or not to uphold the appeal. The Director of Customer and Cultural Experience will notify the customer of the decision.

Referring cases to the Local Government Ombudsman and the Information Commissioners Office

There may be exceptional circumstances, where the relationship between us and a customer has broken down to a point where a resolution is not possible. In these cases, we may seek to close the case without completing all stages of our complaints procedure or we may expedite the case to a final stage.

We may also seek informal advice and guidance from the Local Government and Social Care Ombudsman (LGSCO) or the Information Commissioners Office (ICO), but this will not involve the sharing of personal data in relation to any advice sought.

A customer who has been treated as behaving unreasonably may make a complaint to the LGSCO about it. The LGSCO is unlikely to be critical of the organisation's action if it can show that it acted proportionately and in accordance with its adopted policy.

For further information, please refer to the following:

Local Government and Social Care Ombudsman: [Home - Local Government and Social Care Ombudsman](#)

Information Commissioners Office: [Home | ICO](#)

END