

London Borough of Barnet

Management of Unreasonable Customer Behaviour Policy

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1. Introduction

- 1.1. London Borough of Barnet is committed to being a 'listening council' that collaborates with and listens to local residents and communities. The council recognises the importance of customer enquiries and contacts including complaints, which are welcomed as a valuable form of feedback about our services to help improve the quality of the services we provide and our interactions with our customers.
- 1.2. On occasions, despite there being nothing further that can reasonably be done to assist customer rectify a real or perceived problem, our staff come into contact with customers who absorb a disproportionate amount of resources when dealing with their complaint or enquiry. In these situations, the decision may be made to classify a customer's behaviour as unreasonable, or to classify a request for information as vexatious.
- 1.3. Managing unreasonable customer behaviour and/or vexatious requests can be difficult and time consuming. While staff are expected to respond professionally and to be sensitive and empathetic to the needs of all, unreasonable behaviour by customers can, by their approach or conduct, add additional pressure on staff capacity and workload. Therefore, staff will need to be supported and guided in how best to respond in these situations by line management as well as through relevant teams through the council (for example, Health and Safety, Human Resources, etc).
- 1.4. The aim is to address the customer's concerns while maintaining a safe and productive working environment for staff and fair service delivery to all customers through appropriate use of staff resources.
- 1.5. It is important to note that raising legitimate queries or criticisms are not regarded as unreasonable. Also, if a customer is unhappy with the outcome of a council process or decision, including those under the council's complaints procedure, and seeks to challenge it, this will not result in them being classified as unreasonable. Furthermore, we appreciate that customers may feel frustrated and aggrieved and it is, therefore, important to consider the merits of their enquiries or complaint(s) rather than their attitude. However, if a customer becomes unreasonable in an unnecessarily persistent or aggressive manner a decision may be taken to invoke this policy.

2 Purpose

- 2.1. The council will deal with enquires and customers in ways that are open, fair and proportionate. A considered, policy-led approach clarifies standards, expectations and options for staff and customers. A policy that is shared with customers can help in managing their expectations and behaviour, as far as possible, while their complaint(s) or enquiries are addressed thoroughly and appropriately.
- 2.2. Throughout their interactions with the council, customers are expected to conduct themselves in an acceptable and courteous manner and not verbally harass or cause offence to staff and other service users.
- 2.3. This policy applies to all council staff with daily and routine contact with customers and sits alongside the council's Health and Safety Policy (Section 9 - Violence, Abuse and Harassment at Work). Violence, Abuse and Harassment at work is defined as

"...any incident where an employee has been physically assaulted, verbally abused/threatened or subjected to harassment by a person whom they have come into contact with arising out of or in the course of their employment".

- 2.4. The council will not tolerate physical violence, physical or verbal abuse or any forms of harassment against our employees. Employees must report all incidents of Violence, Abuse and Harassment. Please see the [Health & Safety policy](#) for more information.

3 What is unreasonable customer behaviour?

- 3.1. Unreasonable behaviour may include one or two isolated incidents; as well as unreasonably persistent behaviour, which is usually an accumulation of incidents or behaviours over a longer period.
- 3.2. 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 complainants are those complainants 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”.*
- 3.3. Some customers may pursue requests or complaints in inappropriate ways e.g., frequent/lengthy/repeated phone calls, emails or letters in relation to the same matter, expecting a response immediately or within an unreasonable timeframe. Others may pursue complaints or requests which have no justification, or which have already been considered and dealt with. Their contacts with us may be amicable, but still place significant demands on staff. Some customers may wilfully act or threaten to act in a manner that may cause harm to the council staff, its resources or customers.
- 3.4. Very occasionally individuals may act deceitfully e.g., by providing false or misleading information, or adopting false identities. Such behaviour is unacceptable and managing it can become a distraction from consideration of the original substance of the matter raised. Situations can escalate, and in some cases, customers may become abusive, offensive, threatening, or otherwise behave unacceptably.
- 3.5. The council has a duty to protect its staff, contractors and Members and its service provision to all its customers.

4 Examples of unreasonable actions and behaviours

- 4.1. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper consideration of the complaint.
- 4.2. 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 in this category:
- Persistently approaching the council through the same or 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 enquiries or complaints investigation process.
 - Insisting on the complaint being dealt with in ways which are incompatible with the adopted procedures or with good practice.

- Raising numerous, detailed but unimportant questions; insisting they are all answered.
- Pursuing parallel complaints on the same issue with a variety of departments or organisations.
- Refusing to accept the decision; repeatedly arguing points with no new evidence, complaining about outcome and or denying that an adequate response has been given.
- Covertly recording meetings and conversations.
- Submitting repeat complaints with minor additions/variations which the customer insists make these 'new' complaints.
- Changing the basis of complaints as the investigation proceeds.
- Making excessive demands on the time and resources of staff i.e. through frequent, lengthy or repeated communication in relation to the same matter, or expecting a response within an unreasonable timeframe
- Making discriminatory or other inappropriate comments (including those which contravene the Equalities Act 2010) for example on grounds of age, disability, ethnicity, gender, gender transformation, marriage, pregnancy, religion, race, sexual orientation or sex which may cause offence.

5 What is a vexatious request?

- 5.1. 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.”
- 5.2. A vexatious request may include one or two individual requests for information or may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute, or it is the latest in a lengthy series of overlapping requests.
- 5.3. However, we will not automatically refuse a request simply because it is made in the context of a dispute, or if it forms part of a series of requests. In defining unreasonable behaviour, 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 or justified cause”.
- 5.4. We will consider each request for information on its own merits, and we will not automatically refuse a request because the individual may have made vexatious or repeated requests in the past.
- 5.5. We will ensure that we consider whether the request (and not the requester) is vexatious, with our focus being on the request itself.

6 Examples of vexatious requests

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

- 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.
- Submitting repeat complaints with minor additions/variations that the customer insists make these 'new' complaints.
- 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 and no worthwhile outcome which could be achieved.
- The request has the effect of harassing the council or distressing staff e.g., use of derogatory language, combining a request with complaints and accusations.

7 Considerations before taking action

7.1. In determining arrangements for handling such customers, staff must consider the following:

- **Has the complaints procedure been correctly implemented so far as possible?**

Every effort must be taken to ensure that no material element of a complaint is overlooked or inadequately addressed. It must also be appreciated that even unreasonable customers may have aspects of their complaints that contain some genuine substance. Hence, the need to ensure an equitable approach is crucial. It is important to also remember that the customer retains their right to request a review of their complaint by the Ombudsman.

- **Is there evidence to suggest that a customer has become unreasonable?**

The implementation of this policy should only occur in exceptional circumstances. There must be clear evidence to support the classification of a customer's behaviour as unreasonable. Such evidence could be written correspondence, record of meetings, records of telephone calls or visits.

8 Warnings

- 8.1. In most instances before any action is taken under the policy, we will explain to the customer in writing what aspects of their conduct has given cause for concern and ask them to change it. The customer will be warned that if the conduct persists, their case may be considered under the Management of Unreasonable Customer Behaviour Policy, a copy of which will be included with the warning letter. Once a warning has been issued, it will usually be for 12 months unless the behaviour continues, in which case, we will review the case and write to the customer again.
- 8.2. Where the behaviour threatens the immediate safety and welfare of an employee, we will report the matter to the police and/or consider taking legal action and take appropriate action as per the council's Health and Safety policy. In such cases, we may not issue a warning letter.
- 8.3. Good judgement and discretion must be used in applying the criteria to identify unreasonable customer behaviour and in deciding on appropriate actions.

- 8.4. The policy can only be implemented following careful consideration by the relevant Head of Service, and the Corporate Complaints Team must be notified. This includes the council's partners which deliver services on behalf of the council and wish to apply the policy to one of their customers.
- 8.5. A customer may demonstrate unacceptable behaviour to one of the organisations delivering services on behalf of the council, or a specific area of the council's business, their dealings with other services might be deemed acceptable. In these circumstances, a blanket application of the policy might not be appropriate. Further advice on how to deal with these types of issues can be obtained from the Corporate Complaints Team.

9 Options for restricting service to unreasonable customers

- 9.1. Prior to any final decision being made to classify a customer's behaviour as unreasonable the Head of Assurance and Business Development or Assistant Director Assurance will receive a summary of the particulars of the case. This will have been compiled by the service equivalent or other nominated Head of Service. The summary will include evidence to support the application, which may have been gathered from the complaint file, incident reports, or other relevant sources. The summary must include all available and recommended options for managing the customer's unreasonable behaviour and for satisfactorily resolving the matters.
- 9.2. When it is agreed that a customer behaviour meets the policy criteria, the Head of Assurance and Business Development or Assistant Director Assurance will confirm which action can be implemented in line with the policy. The Head of Assurance and Business Development or Assistant Director Assurance may, depending on the nature of the case, seek support from the council's legal department, Resident Experience and Digital Team and/or Health and Safety Team.
- 9.3. Restrictions will be tailored to deal with the individual circumstances and may include one or more of the following (the list is not exhaustive):
 - Placing limits on the number and duration of contacts with staff per week or month.
 - Offering a restricted time slot for necessary calls.
 - Limiting customer communication to one medium of contact (telephone, letter, email etc).
 - Officers providing a single combined response to multiple communications received from the customer.
 - Requiring the customer to communicate only with a single point of contact.
 - Requiring any in-person contacts to take place in the presence of a witness and in a suitable location.
 - Refusing to respond to communications about the matter or refusing to register and process further requests or complaints about the same matter.
 - Refusing the customer access to any council buildings, except by prior arrangement.
 - Temporarily suspending all contact with the customer, or investigation of a complaint, whilst seeking legal advice or guidance from relevant departments or the Ombudsman.
- 9.4. Personal circumstances or other factors may be relevant in deciding on the most appropriate actions. For instance, any arrangements for limiting a customer's contact will consider the

individual's circumstances, bearing in mind such issues as age, disability, gender, race, religion or belief.

- 9.5. Where applicable, where a decision on a complaint has been made the customer will be informed that future correspondence regarding the complaint will be read and placed on the file but not responded to, unless it contains material new information.

10 Notifying and recording the decision

- 10.1. The Head of Assurance and Business Development or Assistant Director Assurance will authorise the appropriate action.
- 10.2. The customer will receive written notification of:
- the decision along with reasons for applying the policy,
 - in practical terms what this may mean for the customer,
 - how long the restrictions will last and when the decision will be reviewed, and
 - a copy of this policy for reference.
- 10.3. It should be noted that a customer whose behaviour is deemed to be unreasonable under this policy has the right to make further new complaints or enquiries if they so wish. However, these will not be considered if they relate to a matter that has already been fully investigated, or they are deemed to be unfounded and an attempt to prolong contact with the council.
- 10.4. A customer's behaviour being deemed unreasonable does not prevent the customer from making requests under the Freedom of Information Act or the Data Protection Act. These requests must be made in writing to the [Records and Information Management Team](#).
- 10.5. The Corporate Complaints Team will ensure that any restrictions implemented are recorded on the council's complaints' case management system and, where relevant, notify the Health and Safety Team to add an entry on the Potentially Violent Person (PVP) register.
- 10.6. The file record will also include a date of the decision to categorise the customers' behaviour as unreasonable and when the status will be reviewed and may be removed. Please note that unreasonable behaviour status may be reviewed, and restrictions may remain in place if there is sufficient justification, and it is deemed necessary to do.
- 10.7. The Service Area where the complaint/query originated will monitor the customer's compliance with any agreements or restrictions applied under the policy, and update records accordingly. This information may be used in application of this policy, including the review process.
- 10.8. The Service Area will be responsible for ensuring that key staff are aware of the restrictions applied to customers under this policy and inform relevant colleagues of any changes in the status and/or management of these restrictions.
- 10.9. The service area will ensure that any member of their staff who may be distressed by an incident are supported, and the services of the Staff Counselling Service or other appropriate support service made available, in line with the corporate Health and Safety policy.
- 10.10. Privacy Notice: Information provided can be used for the purposes of managing the policy and administering the unreasonable behaviour register. All data must be held securely and processed in accordance with the Data Protection Act 2018 and the General Data Protection Regulation. The council will share the customer's name, contact details and details of the

behaviour with other services in the council on a need-to-know basis. Further details can be found at [Information Management - Data Protection & Freedom of Information privacy notice | Barnet Council](#)

11 Right of Appeal

- 11.1 Customers have the right of appeal once the policy on the Management of Unreasonable Customer Behaviour has been invoked. An appeal can be made in writing to the Executive Director of Assurance within one month of being informed of the decision to apply the policy. For an appeal to be considered, the customer must clearly state why they disagree with the decision.
- 11.2 All appeals will be reviewed by the Executive Director of Assurance as part of which the case history and the decision is re-examined.
- 11.3 A letter will be sent to the appellant after the appeal has concluded, which will confirm the outcome of the appeal review.

12 New requests or complaints

- 12.1 The Head of Service of the relevant service area will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to a new complaint or request.
- 12.2 If the restrictions applied under the Management of Unreasonable Customer Behaviour Policy has been lifted and a customer continues to make contact with the council in a way that is deemed to be a continuation of previous behaviour, the council will have the right to invoke the policy in full without giving a prior warning. If this happens, the council will write to the customer to confirm this and the nature of restrictions applied.

13 Reviewing the unreasonable behaviour status and restrictions

- 13.1 Once a customer's behaviour has been determined as unreasonable, there needs to be a mechanism for reviewing and withdrawing this status at the appropriate time. Reasons for this might, for example, be where customers have complied with the restrictions applied, and demonstrate a more reasonable approach.
- 13.2 Any restrictions on contact between customers and the council will be reviewed in line with the timescales applied under this policy. If the timescales are to be extended the customer will be informed of this in writing; otherwise, the application of this policy will expire at the end of the allocated timescale unless the restrictions are indefinite due to the specific nature of the contacts or complaints.
- 13.3 Staff or service that have recommended the unreasonable behaviour status at the outset should similarly recommend that this status be reviewed and withdrawn when appropriate.
- 13.4 The Corporate Complaints Team will schedule reviews of cases as part of the routine review process.
- 13.5 Where staff have recommended the review of an unreasonable customer behaviour, or where the case is due for review, discussions will be held with the Corporate Complaints Team and relevant service representatives. Subject to approval by the Head of Assurance and Business Development or Assistant Director Assurance, the unreasonable behaviour status and/or all or some restrictions may be removed.

14 Failure to adhere to restrictions

14.1 If the customer continues to behave unreasonably or does not adhere to the restrictions placed on them, we may decide to take further action. There are various possibilities depending on the nature and extent of the behaviour in question. This may include:

- Preventing incoming calls into the council by “blocking” their number, this will stop calls to a specific extension number(s).
- The Service Area may decide to end any form of contact with them. In this case, the customer must be informed of this. This action must be discussed and agreed with the Heads of Service as we must ensure that it is not in breach of any contractual or statutory duties to the customer or any safeguarding issues.
- Making an application to court for an injunction, to prevent the customer from contacting the council unnecessarily.
- Referring the matter to the council’s Health and Safety Team, with the potential to add the resident to the Potentially Violent Persons register.
- Reporting to the police where the behaviour may be a criminal offence.

14.2 Consideration will be given to possible exceptions to the council taking this action. For example, in the case of an extreme emergency in which the customer needs to contact the council.

15 Policy Review

15.1 This policy will be reviewed as part of a routine review cycle and when necessary. The council reserves the right to make amendments to this policy at short notice, or in any situation that warrants an immediate amendment being introduced.