

## **Persistent and Vexatious Complaints Procedure**

### **Unreasonable and Unreasonably Persistent Complaints**

Wirral Council are committed to dealing with all complaints fairly. However there are a small minority of complainants whose frequency of contact with the Authority, persistent, habitual, prolific, vexatious complaints or unacceptable behaviour makes it necessary for special measures to be taken.

On the whole, dealing with complaints is a simple process but there are a small number of complainants who because of the frequency, nature or tone of their contact with us, adversely affect our ability to do our job. When contact with a complainant absorbs a disproportionate amount of resources in dealing with their complaint, it is recognised that this situation can cause undue stress for staff.

This policy aims to provide staff with a clear and fair process for dealing with these situations.

Wirral Council do not expect our staff to tolerate unacceptable behaviour by complainants or members of the public. Unacceptable behaviour includes behaviour and comments which are abusive, offensive or threatening.

This procedure will only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints through the Wirral Council complaints procedure. Implementation of the “persistent complaints” procedure should only be implemented following careful consideration and with the authorisation of the Head of Legal Services and/or Head of Customer Services having ensured all reasonable steps have been taken to deal with the customer fairly.

### **Definitions**

A vexatious complaint is one where, on the facts of the case, it has little merit or substance and has been made with the intended consequence of distress or harm to either the individual receiving the complaint, or the subject of the complaint (where they are different individuals).

A persistent or habitual complainant is defined as ‘someone who continually makes contact with the Local Authority to request review of a regular complaint issue’. This may also include offensive, rude, aggressive, discriminatory or abusive behaviour or comments during contact.

A prolific complainant is someone who raises the same issue despite having been given a full response and may display certain types of behaviour including:

- Complains about every part of the system regardless of the issue
- Seeks attention by contacting several agencies and individuals
- Always repeats the full complaint
- Automatically responds to any letter from the Local Authority
- Insists that they have not received an adequate response
- Focuses on a trivial matter

**For purposes of the procedure it may be appropriate to refer to a complainant as being defined as vexatious and/or habitual and /or persistent.**

## **Criteria**

Complainants may be deemed to be a 'vexatious /habitual/persistent complainant' where on-going contact with them shows that they meet at least two of the following criteria.

The complainant:

- Refusing to specify the grounds of a complaint, despite offers of help
- Refusing to cooperate with the complaints investigation process
- Refusing to accept that certain issues are not within the scope of a complaints procedure
- Insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure
- Making unjustified complaints about staff who are trying to deal with issues and seek to have them replaced
- Changing the basis of the complaint as the investigation proceeds
- Denying or changing statements made at an earlier stage
- Introducing trivial or irrelevant information at a later stage
- Raising many detailed but unimportant questions and insisting they are all answered
- Submitting falsified documents from themselves and others
- Attempts to pursue parallel complaints on the same issue with various departments
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous members of staff or detailed letters every few days and expecting immediate responses
- Submitting repeat complaints with minor additions/variations the complainant insists makes this a 'new' complaint
- Refusing to accept the decision; repeatedly arguing points with no new evidence
- Making recordings of conversations or mobile phone videos of Council Officers without gaining permission of the officer first

## **Action**

Once it is clear that the complainant has met at least two of the criteria as outlined and a decision has been taken to invoke procedure, the Head of Legal Services and/or Head of Customer Services will determine the action to be taken. The complainant will be notified in writing of the reasons why they have been identified as a persistent complainant and the action to be taken as outlined below.

This notification may, if appropriate, be copied for the information of others already involved in the complaint. A record must be kept for future reference of the reasons why a complainant has been deemed a persistent complainant.

In some cases it may be appropriate, at this point, to re-iterate and suggest that complainants seek advice and support from a Carer, friend or Advocacy in processing their complaint

The complainant will receive one written warning confirming that if their behaviour/actions persist, this may result in the council treating them as a Persistent/habitual or vexatious complainant and future contact may be restricted.

### **Restricting Complainant Contact**

Depending upon the level and nature of the complainants contact with us, the following actions may be taken

- Requesting contact in a specific form (eg by letter only)
- Requesting contact be made with a named officer only
- Setting the number of phone calls that will be accepted (eg once a week)
- Refusing to deal with future correspondence on the same matter if a decision has already been reached
- Similar action, at a reasonable and appropriate level, to address the issues being presented

The complainant will receive a copy of this policy with a covering letter explaining that the policy has been applied and how it will affect their contact with us.

The letter should outline the length of time for which restrictions will be place and how they can ask for the restricted status to be lifted/reviewed.

### **Aggressive Complaints**

On occasions a complainant can go from being unreasonably persistent to offensive, abusive or threatening any of which will not be tolerated.

Complaints will be seen as vexatious in any situation where violence has been used or threatened towards our staff at any time. This will result in personal contact with the complainant being stopped and they will only be allowed to contact the council in writing. In such incidences, there may be a need to report this behaviour to the police.

### **Appealing Against a Decision to Restrict Access**

A complainant can appeal the decision to add them, to a list of “persistent/vexatious complainants” within 15 days of being notified of the decision:

This should be sent in writing to Chief Executive, Wallasey Town Hall, Brighton Street, Wallasey, Wirral CH44 8ED.

### **Procedure Admin**

	<b>Name</b>	<b>Role</b>	<b>Date</b>
Issued by	Shelby Loudon	Customer Feedback Team Leader	07/08/2017
Approved by	Simon Cuerden	Corporate Business Support Manager	07/08/2017
Review Date			07/08/2020

## **Staff Guidelines**

### **Dealing with Aggressive Customers by Phone or in Person**

Many staff who deal with the public on a day to day basis either face to face or over the phone may have experienced an exchange with an abusive customer at some point or another. In these situations an immediate response is sometimes required to deal with this type of customer. If this happens, here are some tips that can be used to try and work towards a resolution:

Always try to be honest about what you can do. If you're unsure about how to deal with the call, don't try to bluff your way through as this may upset the customer even more. Explain that you're unsure of how to deal with the situation and that you need to seek advice from your manager or colleagues.

If a customer is complaining about an issue that's covered in any contract you have with them, respectfully refer the customer to the clause that supports your position.

If you are unable to deal with an abusive customer effectively and you feel it's appropriate ask your Manager or a colleague who is more experienced at negotiating with angry clients to speak to the customer.

Don't try to talk over or interrupt your abusive customer when they are in mid-flow. This is only likely to make the customer angrier. Let them finish what they are saying. If this involves a long, drawn-out rant, so be it. When they finish what they have to say you can then state your position. If the customer interrupts, tell them that you have listened carefully and would be grateful if they could extend you the same courtesy. Advise the customer that they are entitled to make a complaint through the Council's complaints procedure.

**Finally, if appropriate - Issue a Warning** - If your customer repeatedly uses foul language and/or threatens you, advise them that you do not have to, nor will you, tolerate being spoken to in such a manner. Explain again that you are there to help, but warn them that you will terminate the call if you're on the phone or ask them to leave the premises if you are dealing with them in person.

### **Terminate the Conversation**

If all else fails and you're unable to effectively communicate with the abusive customer, end the discussion. If you're on the phone, explain politely that you feel you can go no further with the conversation and that you're going to hang up. If you're dealing with the customer face to face, ask them to leave your premises.

Remember to log the incident, include as much detail as possible and advise your Line Manager as soon as possible.