

## **Guidance Note on the Management of Unreasonable Contact and Customer Behaviour**

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### **1 Introduction**

- 1.1 Hampshire County Council is committed to providing a high-quality service at all times to all of its customers.
- 1.2 We recognise that there are times when our service may not meet the high standard we set ourselves and as a result, customers become inconvenienced. We are committed to dealing with all concerns fairly, fully, and in a timely manner. In return we expect people to be polite and considerate to our staff.
- 1.3 Usually dealing with concerns is a straightforward process, but in a small number of cases customers pursue their issues in a way that can get in the way of investigating these, or unfairly take staff away from their other duties.
- 1.4 The aim of this guidance is to let staff, Members and customers know what we consider to be unreasonable customer behaviour, the options available to the Council, and the possible consequences to the individual.
- 1.5 We will only invoke this guidance after careful consideration, and in exceptional circumstances. People may have justified concerns but may be pursuing them in an inappropriate way, or they may be intent on pursuing concerns which appear to have no substance, or which have already been investigated and determined.
- 1.6 If a customer's behaviour adversely affects our staff's ability to do their work and provide services to others, we may decide to restrict the contact that person has with the County Council. The steps and actions outlined in this guidance may be used to restrict contact even where a formal complaint has not been received. If we decide to treat someone using this guidance, we will write to tell them why we believe his or her behaviour falls into that category, what action we are taking, and the duration of that action.

## 2 **What do we mean by “unreasonable customer behaviour”?**

2.1 We have adopted the definition used by the Local Government and Social Care Ombudsman, and incorporated additional guidance provided by the Information Commissioner’s Office. Unreasonable customer behaviour occurs where:

- There is repeated and obsessive pursuit of a matter which appears to have no substance, or which has been investigated and determined.
- The contact may be amicable but still place very heavy demands on staff time or may be very emotionally charged and distressing for all involved.
- There is an escalation of behaviour which is unacceptable, for example abusive, offensive, or threatening language or behaviour.

2.2 Examples include the way or frequency that customers raise their concerns or queries with staff, or how customers respond when they are told of our decision. Appendix 1 lists a range of situations the County Council may consider to be examples of unreasonable behaviour.

## 3 **Considerations to be made before taking action to restrict access**

3.1 All customers have the right to have their complaint, requests, or concerns responded to or investigated. Staff should ensure that the suitable procedure is exhausted – ended at a point that is appropriate to each case – and the customer notified as such. This could include the applicable complaints procedure, a relevant information request process (e.g. Freedom of Information), or a process under the UK General Data Protection Regulation (e.g. Right to Rectification).

3.2 Staff should consider and ensure they understand a customer’s circumstance, how and why they feel as they do, and what it is that would resolve the matter for them. We must be sure that we have given them the opportunity to express their views and opinions, and that we have listened and given appropriate thought and effort to resolving and explaining the position and our actions.

3.3 Before deciding whether the guidance should be applied, the coordinating team (such as the departmental Complaints team, or FOI team), along with the relevant senior managers, will consider and satisfy themselves that:

- The complaints/requests/concerns are being or have been investigated and responded to appropriately
- Communications with the customer have been suitable for the process being followed and within the County Council guidelines
- Any decision reached has been reviewed and is found to be appropriate to the process being undertaken
- The customer is not now providing any significant new information that might affect our view on the outcome

- There is not another, more specific path for the customer to follow, e.g. an appeal process to be followed when they are complaining about a decision taken that directly affects them, such as an employment tribunal appeal process
- 3.4 Evidence will be required from the affected service, such as a chronology of contact reasons and an explanation of why the behaviour is considered unreasonable (see examples in Appendix 1). If there is any ambiguity or uncertainty, the coordinating team will seek advice from the Head of Information Governance.
- 3.5 If they are satisfied on these points, they will also consider whether further action is necessary prior to taking the decision to designate the customer's behaviour as unreasonable. Depending on the nature of the issues raised and the process being followed, this could include:
- Offering the customer a meeting with an officer of appropriate seniority to explore scope for a resolution of the issues and explain why their current behaviour is seen as unreasonable
  - Sharing the guidance with the customer and warning them that restrictive actions may need to be applied if their behaviour continues
  - Setting up a strategy meeting to agree a cross-departmental approach
  - Designating a key officer to coordinate the organisation's response(s).
- 3.6 Some individuals that staff may consider to be unreasonable may be behaving this way because of a specific circumstance or difficulty, such as a mental health problem. Where this is indicated, any concerns that staff may have about a customer's vulnerability must be raised immediately with their Head of Service in line with any policies relating to this. If the customer has additional needs, an advocate might be helpful to both parties.
- 3.7 Any restrictive actions that may be taken will be tailored depending on the circumstances and behaviour of the customer and their complaint, request, or concern.

## 4 **Possible Actions**

- 4.1 Actions that could be taken to restrict access and contact:
- Restricting telephone calls to specified days/times/duration (for example, one call on one specified morning/afternoon of any week)
  - Limiting the customer to one medium of contact (telephone, letter, email etc.) and/or requiring the customer to communicate only with one named member of staff. If this is by email, it will be automatically forwarded to the named contact point
  - Requesting that the customer enters into a contact agreement for their future contact with the County Council
  - Placing restrictions on the amount of time officers will spend investigating their complaints or concerns

- Where relationships have broken down, requesting that the customer uses an appropriate advocate to act and contact the County Council on their behalf
- Banning the customer from using any of the County Council's services, such as libraries or activity centres
- Banning the customer from visiting any County Council building except by appointment
- Requiring contact to take place with one named member of staff only
- Letting the customer know that the County Council will not reply to or acknowledge any further contact from them on the specific topic of that complaint, request or concern
- Placing limits on the number and duration of contacts with staff per week or month
- Requiring any personal contacts to take place in the presence of a witness and in a suitable locations
- Refusing to register and process further complaints, requests or concerns about the same matter.

4.2 In some circumstances, the County Council may decide that it is appropriate to severely reduce or completely stop responding to a particular customer.

4.3 The decision to restrict or stop a customer's access to the County Council's publicly accessible offices and facilities can only be taken by the Head of Information Governance in consultation with the appropriate service director.

## 5 **First Stage**

5.1 An officer from the coordinating team (such as the departmental Complaints team, or the FOI team) will contact the Head of Information Governance to discuss why the customer's behaviour is causing a concern, giving clear documented evidence to support this, and outlining how the behaviour needs to change.

5.2 With the approval of the coordinating team and a senior manager in the department concerned, the relevant officer will write to the customer explaining how their behaviour or contact is unreasonable, what they should do to change this, and the actions that the County Council may take if their behaviour does not change.

5.3 Where the warning relates to a concern or complaint, a copy of this guidance must be provided.

5.4 Where the warning relates to the GDPR or information request processes, the exemptions under the relevant legislation will be included in the correspondence, and appropriate guidance provided.

5.5 The Head of Information Governance must be advised before a warning letter is sent to the customer.

5.6 In circumstances where the behaviour is deemed to be sufficiently unreasonable, the County Council will apply the second stage immediately. In these circumstances, the Head of Information Governance must be consulted.

## 6 **Second Stage**

6.1 If the behaviour continues, the Head of Information Governance, in consultation with the appropriate Head of Service, will make a decision as to the action to take. A letter will then be sent by the Head of Information Governance to the customer outlining this decision. All letters will include:

- Why we have taken the decision we have
- What specific action we are taking
- The duration of that action
- The date the decision will be reviewed (where applicable, see section 8)
- The circumstances that the decision could be reviewed in advance of that date (e.g. new relevant information)
- The appropriate escalation route for the customer should they wish to challenge the decision to restrict their contact or refuse their requests (see section 9).

6.2 A log of the decision made and records of all contacts with the customer will be kept by the affected department. This information will be treated as confidential and only shared with those who may be affected by the decision in order for them to carry out their role at work.

6.3 Key information to be recorded includes:

- When a decision is taken not to apply the guidance when a member of staff asks for this to be done, or
- When a decision is taken to make an exception to the guidance once it has been applied, or
- When a decision is taken not to put a further complaint, request, or concern from the customer through the relevant procedure for any reason, and
- When a decision is taken not to respond to further correspondence, make sure any further letters, faxes, emails, or voicemail messages from the customer are checked to pick up any significant new information.

6.4 Any further contact from the customer, for example on a new issue, will be treated on its merits.

## 7 **Who will be informed about restrictions?**

7.1 All officers and Members who have experienced unreasonable customer behaviour from an individual relating to the specific complaint, request, or concern will be informed of the decision to impose a restriction. The ward Councillor/s where the person lives will also be informed, where this is deemed appropriate.

## **8 Reviewing the decision to restrict contact or access**

- 8.1 When imposing a contact restriction a specified review date is given. Once that date has been reached, the restriction should be lifted and relationships returned to normal unless there are good grounds to extend the restriction.
- 8.2 The Head of Information Governance will review the restriction at the agreed time with the Departmental Complaints team and a senior manager from the department concerned. If the restriction is to continue, the reasons for the continuation of the restriction will be given to the customer along with the next review date. If the decision is made to lift the restriction, any correspondence received after that date will be responded to appropriately.
- 8.3 In the event that unreasonable customer contact restarts after the contact restriction has been lifted, the Head of Information Governance can reinstate the contact restriction without sending a warning.
- 8.4 If a customer continues to contact the County Council in the manner that triggered the contact restriction, the Head of Information Governance can choose to extend the contact restriction while it is still active.
- 8.5 This does not apply to requests processed under the GDPR or information request processes, where no specific review date will be applied. A refusal under these processes will only be reviewed where there is a significant change in circumstance or information available.

## **9 Escalation routes for customers**

- 9.1 A customer whose requests have been refused as vexatious (under the Freedom of Information Act 2000), manifestly unreasonable (under Environmental Information Regulations 2004), or manifestly unfounded (under the Data Protection legislation) may make a complaint to the Information Commissioner's Office (ICO) about the way their requests have been processed.
- 9.2 A customer who has been designated as unreasonable, but not under specific legislation as referenced in 9.1, may make a complaint to the Local Government and Social Care Ombudsman about the way in which they have been treated.
- 9.3 The appropriate regulator is unlikely to be critical of the County Council's action if it can show that it acted proportionately and in accordance with its adopted guidance.

## **10 Harassment and bullying**

- 10.1 Unreasonable customer behaviour may amount to bullying or harassment. All County Council workers have the right to be treated with respect and dignity in the workplace.
- 10.2 Behaviour by third parties that bullies, harasses, or intimidates County Council workers is unacceptable and will not be tolerated. The County Council will take all reasonable steps to prevent such behaviour.

10.3 Workers will be protected from victimisation after raising genuine complaints about harassment they have experienced, whatever the outcome.

## 11 **Links to other County Council Policies**

11.1 The terms of this Guidance are in line with guidance issued by the Local Government and Social Care Ombudsman, [Guidance note on managing unreasonable complainant behaviour](#).

11.2 This guidance runs alongside existing corporate policies and guidance relating to [equalities](#), [Health and Safety statement](#), guidance on [Violence and Aggression at work](#), and [Dignity at Work](#).

## 12 **Contact information**

12.1 For more help or information, customers and staff can contact the Information Governance Team:

Email: [corporate.complaints.team@hants.gov.uk](mailto:corporate.complaints.team@hants.gov.uk)

Telephone: 0370 779 0002

12.2 Contact details for the Local Government and Social Care Ombudsman are:

Website: [www.lgo.org.uk](http://www.lgo.org.uk)

Address:

Local Government and Social Care Ombudsman

PO Box 4771

Coventry

CV4 0EH

Telephone: 0300 061 0614

12.3 Contact details for the Information Commissioner's Office are:

Website: [www.ico.org.uk](http://www.ico.org.uk)

Address:

Information Commissioner's Office

Wycliffe House

Wilmslow

Cheshire

SK9 5AF

Telephone: 0303 123 1113

## **Appendix 1 - Examples of unreasonable behaviour of customers**

Unreasonable customer behaviour includes what is listed 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. It may include any or all the below:

- Have insufficient or no grounds for their complaint or request, and be making the complaint or request only to annoy (or for reasons that he or she does not admit or make obvious);
- Refuse to specify the grounds of a complaint, request or issue despite offers of assistance;
- Refuse to co-operate with the appropriate process while still requesting a resolution;
- Refuse to accept that issues are not within the remit of the complaints policy or relevant procedure despite having been provided with information about the scope of the policy or procedure;
- Refuse to accept that issues are not within the power of the County Council to investigate, change or influence (for example a complaint about something that is the responsibility of another organisation);
- Insist on the complaint, request or issue being dealt with in ways which are incompatible with the appropriate procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint or request);
- Make what appear to be groundless accusations about the staff dealing with the case, and seek to have them dismissed or replaced;
- Make an unreasonable number of contacts with us, by any means in relation to a specific complaint, request or concern;
- Make persistent and unreasonable demands or expectations of staff and/or the relevant process after the unreasonableness has been explained to the customer (an example of this could be a customer who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails);
- Harass, verbally abuse or otherwise seek to intimidate staff dealing with their complaint or request, in relation to their case by use of foul or inappropriate language or by the use of offensive language regarding any Protected Characteristics;
- Raise subsidiary or new issues whilst a concern is being addressed that were not part of the concern at the start of the process;
- Introduce trivial or irrelevant new information whilst the issue is being investigated and expect this to be taken into account and commented on;
- Change the substance or basis of the concern/complaint without reasonable justification whilst this is being addressed;
- Raising many detailed but unimportant questions, and insisting they are all answered;
- Submitting falsified documents from themselves or others;
- Deny statements he or she made at an earlier stage in the process;
- Electronically record meetings and conversations without the prior knowledge and consent of the other person involved;
- Adopt an excessively 'scattergun' approach, for instance, pursuing a concern or complaint, not only with the County Council, but at the same time with a Member of Parliament, other councils, elected councillors of this and other councils, the council's independent auditor, the Standards Board, the police, solicitors, and the Local Government and Social Care Ombudsman;

- Adopt a 'scattergun' approach within the County Council, contacting multiple departments, teams or individuals to raise the same complaint or request;
- Refuse to accept the outcome of a process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given;
- Make the same complaint or request repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints or requests which should be put through the full relevant procedure;
- Persistently approach the County Council through different routes about the same issue;
- Persist in seeking an outcome which we have explained is unrealistic;
- Complain about, or challenge, an issue based on a historic and irreversible decision or incident.

## **Appendix 2 – Advice to Staff on responding to threatening and difficult behaviour**

### **General**

All staff who deal with face-to-face contact with the public should be given appropriate training.

Staff should at all times respond to customers courteously and focus on trying to resolve the customers' query.

Aggression can be other than physical assault; there are times when staff feel threatened, intimidated or bullied by the language and behaviour of a customer. The County Council expects staff to be treated courteously and with respect.

If staff are faced by threatening or difficult behaviour from a customer, they should stay calm, and not respond in kind.

If staff feel threatened by a customer they will report their concerns, and the reason for those concerns, to their manager. The manager will report the incident using the appropriate departmental procedure, such as a notification under the Health and Safety procedures, and will consider:

- Writing to the customer, using this guidance. Requiring no repetition of the behaviour and if necessary setting conditions and restrictions for further contact with staff
- Whether to report the incident to the Police.

More information about relevant policies and procedures can be found in Section 11.

### **Telephone**

If staff consider during a telephone conversation that a caller is becoming aggressive and/or offensive they will inform the caller that they will terminate the conversation unless such behaviour ceases. If the aggression continues the member of staff will put down the receiver terminating the call. A note will be placed on file of the reason for terminating the call. Staff will respond to repeated calls in the same way. Repeated calls can be harassment which should, after consultation with a senior designated officer, be reported to the Police.

### **Responding to threatening and difficult behaviour in face-to-face situations**

Visitors to the County Council premises such as reception areas may show aggressive behaviour when they do not achieve the aim of their visit. Triggers for unreasonable behaviour can include:

- Not being able to see the person they hold responsible for their current situation or discontentment.
- Not being allowed instant access to the Chief Executive or other Heads of Departments.
- Not being able to resolve their complaint during the visit

- Not being able to understand that County Council Solicitors are unable to advise them on the legal position relating to their own particular situation.

Because the outcome of this and any previous visits have not proved satisfactory, staff can feel threatened by aggressive and unreasonable behaviour including the examples below:

- The person shouts very loudly and makes demands to see the officer they hold responsible (consideration should be given to any possible hearing impairment).
- Threats are made to members of staff trying to be helpful.
- The language used to staff is abusive and upsetting.
- The person refuses to leave until their problem is resolved.
- Their continued presence causes disruption/distress to other visitors in the reception/general office area.

Such difficult situations can sometimes be resolved by being patient, remaining calm, listening and identifying exactly what the problem is. Perhaps by recognising which department or office may be helpful, contact can be made by staff to see if any progress can be made by directing the visitor to another office if appropriate.

If it is not possible to resolve the situation:

- Make sure that another member of staff is present (telephone another office to request assistance if only one member of staff is on duty). If this is not practicable, assess the situation and decide what action you should take e.g. leave the room to seek assistance.
- Try to remain behind the desk or counter – this acts as a barrier and maintains a distance in order to reduce any risk of violent behaviour
- Explain clearly you are unable to help any further but you will pass on details of their complaint to the relevant person and ask them to leave the premises.
- Telephone a senior manager to ask for further assistance if necessary.
- If the customer refuses to calm down press the alarm button for assistance from Facilities management, where appropriate.
- Write up a clear account of exactly what has happened as quickly as possible after the incident has occurred. List those present in the office at the time, sign and date the document which must be passed to your manager.
- Lone workers may feel particularly vulnerable and departments need specific emergency contacts in place. If necessary, the member of staff may decide to contact the police.
- Your manager may decide the visit has contributed towards the need to invoke the operation of the Guidance for Dealing with Unreasonable Customer Behaviour.