

London Borough of Waltham Forest

Policy on dealing with Unreasonable Behaviour

Including dealing with abusive, or persistent complaints, complainants and customers

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1. Introduction

This policy has been produced to create a joint understanding of what is considered acceptable and unacceptable behaviour on the part of our customers when working with officers and councillors of Waltham Forest Council. The local authority is keen to positively and proactively work with residents to resolve issues, using its resources to achieve the best outcomes for residents and, specifically, the most vulnerable.

This document is intended for reference by members of the public, Councillors, external bodies such as the Local Government & Social Care Ombudsman (LGSCO) and the Housing Ombudsman Service (HOS) and also as guidance to Council staff.

In setting out this policy, the Council recognises people's right to be heard, understood and respected. When implementing this policy, the Council will ensure that customers are treated fairly, honestly, consistently and appropriately.

2. The purpose of this policy

The purpose of this policy is:

- a) To define the behaviours that are not acceptable and deemed as unreasonable to the local authority, including behaviour by people making frivolous, persistent or unreasonable complaints against officers or councillors.
- b) To ensure that the ability of staff or councillors to conduct business is not adversely affected by those few individuals who behave in an unreasonable manner.
- c) To ensure our staff and councillors have a safe working environment and are not exposed to unnecessary stress due to the unacceptable behaviour of others.
- d) To empower local authority staff and councillors to deal confidently and effectively with unreasonable behaviour.

The Council has a duty to protect its employees but recognises its obligations towards residents, customers and complainants. When counter-allegations are made against Council employees, the Council undertakes to carry out appropriate investigations in accordance with its internal policies and procedures.

3. Who does this policy apply to?

- a) This policy applies to all members of the public and all those who deal with the local authority.
- b) It also applies to advocates or advocacy services acting on behalf of customers/complainants.

4. When can the policy be invoked?

- a) This policy **must not** be invoked on the basis of a single episode or incident of unreasonable, frivolous or unacceptable behaviour.
- b) A decision to invoke this policy **must** be made on the basis of documented evidence that demonstrates that a resident's or customer's unreasonable, unacceptable or frivolous behaviour has taken place over a period of time.

5. Equalities and Diversity and reasonable adjustments

When implementing this policy, the Council will have regard to the Equalities Act 2010 and show due regard to an individual's medical condition or vulnerability such as mental health and learning disabilities, as and when applicable. Any restrictions imposed on a customer's contact will recognise and be appropriate to the individual's circumstances.

6. Representation and multi-agency approach

To assist with de-escalating any unreasonable behaviour on the part of a customer, the Council will consider if there are other individuals who may be able to represent the customer in the handling of any issues or complaints they are bringing to the Council. For example, this could be a family member, friend or support worker. Consideration could also be given, if appropriate, to a multi-agency approach if the individual concerned is receiving support from social services.

7. Confidentiality

The Council complies with the provisions of data protection legislation. The Council's Privacy Notice can be found at <https://www.walthamforest.gov.uk/privacynotice>

8. Gathering evidence

- a) Evidence of the unreasonable behaviour is necessary and it is important to note that the policy will not be invoked if there is insufficient evidence to support the Council's actions.
- b) Evidence such as a contact log, file notes, emails, social media, screen shots etc. can be used to demonstrate the unreasonable behaviour on the part of the customer or resident. For example:
 - i. If the customer or resident has used inappropriate language in an email or letter, retain a copy of the email or letter;

- ii. If the customer has been abusive during a phone call to Call Centre staff, retain a copy of the recording;
- iii. If a customer has been abusive during a phone call which has not been recorded, then the officer or councillor involved should make a written record of the phone call.

9. What behaviour is unreasonable?

- a) The Council (referred to as “we”) recognises that, when members of the public (referred to as “you” or “they”) contact the local authority they may have reason to feel aggrieved, upset or distressed.
- b) We do not view assertive behaviour (for example, putting forward your case in a persuasive manner) as unreasonable.
- c) However, we will manage, under this policy, behaviour that is aggressive, rude or abusive, or which places unreasonable demands on our staff or councillors.
- d) Unreasonable behaviour is behaviour or language, whether face to face, by telephone, social media or written that may cause staff or councillors to feel intimidated, threatened or abused. Examples may include:
 - i. Threats
 - ii. Verbal abuse
 - iii. Racist and sexist language
 - iv. Derogatory remarks
 - v. Offensive language
 - vi. Rudeness
 - vii. Making inflammatory statements
 - viii. Raising unsubstantiated allegations
- e) Whilst we accept that those in contact with us may feel angry, it is not considered acceptable when that anger becomes aggression directed towards staff or councillors.

10. Unreasonable requests and communication

- a) Requests may be considered unreasonable by the nature and scale of service expected. Examples may include:
 - i. Requesting responses within unreasonable timescales;
 - ii. Insisting on speaking with specific members of staff or councillors;

- iii. Adopting a "capture-all" approach by contacting many staff members, councillors and third parties;
 - iv. Making repeated and unnecessary contact during the investigation of a complaint.
- b) Communication may be considered unreasonable if, for example, individuals:
- i. Continually contact us while we are in the process of looking at a matter;
 - ii. Make a number of approaches about the same matter without raising new issues;
 - iii. Refuse to accept a decision made where explanations for the decision have been given;
 - iv. Continue to pursue complaints/issues which have no substance;
 - v. Continue to pursue complaints/issues which have already been investigated and determined;
 - vi. Continue to raise unfounded or new complaints arising from the same set of facts.
- c) We recognise that our resources, including staff time, have to be used where they can be most effective. This might mean that we cannot respond to every issue in the way a person would like, if in doing so it would take up what the Council regards as being a disproportionate amount of time and resources that could be used elsewhere to support the most vulnerable in our community.
- d) We ask you to recognise that, due to the volume of work with which we deal, we may not be able to respond immediately to your requests. This does not mean that your concerns are any less important to us. If we have asked for your patience but you continue to pursue your concerns, we may consider such behaviour to be unreasonable.

11. How will we manage unreasonable behaviour?

- a) The Council has a zero-tolerance position on violence and threats against its staff and councillors and this behaviour will **always** be reported to the police.
- b) All members of staff and councillors have the right to terminate phone calls when customers are behaving unreasonably, aggressively or in an abusive manner. Similarly, all staff and councillors have the right to take steps to protect their own safety if they feel threatened through a face-to-face encounter with an aggressive customer or resident.

- c) The Council will only restrict communication with you if we have informed you that your behaviour is unreasonable and have asked you to modify your behaviour. We will explain what action will be taken if the warning is ignored. If you do not modify your behaviour, we will take steps to restrict communications with you. The Council can use a number of options, and these are set out in the next section of this policy.
- d) If we decide a restriction is appropriate, the Council will consider which of the options best fits the circumstances. The level of restriction that we apply will be proportionate, taking into account the nature, extent and impact of your behaviour on our ability to do our work.
- e) We will be transparent and explain to you what restriction we are putting in place, our reasons for doing so, and how long the restriction will apply.
- f) If the local authority has already made a reasonable adjustment for you, this will be taken into account when deciding upon the appropriate course of action.

12. Options to restrict contact

If you continue to behave unreasonably after we have asked you to modify your behaviour, the options we will consider are:

- i. Requiring you to contact a named member of staff only.
- ii. Restricting contact, whether via telephone, face to face, or digital, to specified days and times.
- iii. Terminating contact if you persistently raise issues which we have already responded to in full. We will politely explain that we are unable to comment further on the matter and will ask if there are any other issues you wish to raise. If no new issues are raised and you persist in raising issues which we have already addressed, we will tell you so before ending contact. Where relevant, a written warning will then be sent, with a view to limiting future communication to written communication only. If digital contact is made under a user name, if necessary, we will aim to seek identity.
- iv. Terminating contact if you are aggressive, rude, abusive or offensive. We will politely ask you to modify your behaviour, but if the behaviour continues we will tell you again that your behaviour is unacceptable and end the call. The manager of the member of staff involved will intervene including, where relevant, sending a written warning, with a view to limiting future communication to written only. Similar action will be taken by the Council's Monitoring Officer in relation to Councillors. As above, if digital contact is made under a user name, if necessary, we will aim to seek identity.

- v. Restricting the issues we will correspond on.
- vi. If you send us a large volume of irrelevant documentation, we may return those documents to you. In extreme cases we will advise you that further irrelevant documents will be destroyed.
- vii. If we have already fully explained our reasons for a decision and you have exhausted the procedure to request a review of that decision, in accordance with our set procedures, we will decline to respond to further correspondence which does not raise new issues. The correspondence will be read and filed but we will not acknowledge your correspondence unless you provide significant new information or evidence relating to the matter.
- viii. We will block your emails if the number and length of emails sent causes difficulties for us to conduct our business.
- ix. We will not respond to correspondence which is abusive or offensive and we will block emails that are abusive or offensive.
- x. If you make a large number of reports to us that prove to be unfounded, we may ask that in future any further allegations you submit are supported by an independent third party such as the Citizens Advice Bureau, a legal representative or an advocate, to ensure that in future our staff resources are spent in a proportionate way.
- xi. Physical violence, verbal abuse, threats or harassment against our staff or councillors will not be tolerated and will be reported to the police, who may decide to prosecute. Any one of the above options (or a combination of these) may be applied to an individual.

13. Exceptional circumstances

- a) In exceptional circumstances, the Council reserves the right to take appropriate action that is specific to the unreasonable behaviour that is under consideration. For example:
 - i. When the unreasonable behaviour is being targeted towards one particular member of staff or councillor, the Council may impose an open-ended ban to prevent the customer from contacting that person and to protect their welfare;
 - ii. When the unreasonable behaviour includes publication of derogatory remarks against a member or members of staff or councillors, either in printed media or online or through social media, the Council may impose an open-ended ban on such behaviour and will consider reporting the matter to the Police.
- b) The Council will look at exceptional cases on their own merit and take all necessary action that it deems appropriate for the circumstances. It will ensure that the action it

takes is backed up by appropriate evidence and that reasons leading to the decision are recorded.

- c) When writing to a customer to advise of the action it is taking in such cases, the Council will always provide the customer with a right of appeal.

14. Unreasonable behaviour by someone making a formal complaint to Waltham Forest Council

- a) Dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the Council. This can happen either while their complaint is being investigated, or once the Council has finished dealing with the complaint.
- b) The Council is committed to dealing with all complaints equitably, comprehensively, and in a timely manner.
- c) We will not normally limit the contact which complainants have with Council staff or offices; however, we expect that our staff and councillors are treated respectfully by complainants at all times. This applies to verbal, written or face-to-face contact.
- d) Unacceptable behaviour is explained above and can be applied to complainants.
- e) The Council will take action to protect its staff and councillors from such behaviour. If a complainant, resident or customer behaves in a way that is unacceptable or unreasonably persistent, we will follow this policy.
- f) Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as an unreasonably persistent complainant.
- g) Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled unreasonably persistent.

15. Definitions

- a) We have adopted the Local Government & Social Care Ombudsman's (LGSCO) definition of "*unreasonable complainant behaviour*" and "*unreasonable persistent complaints*".

- b) We define unreasonably persistent complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder our consideration of their or other people's complaints.
- c) Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.
- d) Features of an unreasonably persistent complainant include the following.

This 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.

- i. Having insufficient or no grounds for their complaint and making the complaint only to annoy (or for reasons that he or she does not admit or make obvious).
- ii. Refusal to specify the grounds of a complaint despite offers of assistance.
- iii. Refusal to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- iv. Refusal to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (e.g. complaints about parking tickets or planning appeals).
- v. Refusal to accept that some issues are not within the power of the Council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation).
- vi. Insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice, for example, insisting that there must not be any written record of the complaint.
- vii. Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them dismissed or replaced.
- viii. Making an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints.
- ix. Making persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant or customer who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails).

- x. Harassing or verbally abusing or otherwise seeking to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and racist language.
- xi. Raising subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process.
- xii. Introducing trivial or irrelevant new information whilst the complaint is being investigated and expecting this to be taken into account and commented on.
- xiii. Changing the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed.
- xiv. Electronically recording meetings and conversations without the prior knowledge and consent of the other person involved.
- xv. Adopting an excessively 'scattergun' approach, for instance, by pursuing the same complaint or complaints with various officers of the Council, at the same time as with a Member of Parliament, elected councillors and/or other external bodies, as a result of which the Council has to use multiple resources in order to deal with enquiries, when resources could be better used to investigate and respond to the original complaint.
- xvi. Continuing to argue the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given.
- xvii. Making the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insisting that the minor differences make these 'new' complaints which should be put through the full complaints procedure or persistently approaching the Council through different routes about the same issue.
- xviii. Persisting in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons.
- xix. Complaining about or challenging an issue based on a historic and irreversible decision or incident.
- xx. Persistently arguing the same point, asking us to change records, information or decisions when we have already explained our position.
- xxi. Combining some or all of these features or persisting in behaviour that has the intention or impact of causing harassment to Councillors or staff.

16. Unreasonable complaints made by telephone

- a) A complaint to the Council does not have to be made in writing. If a complainant or customer keeps telephoning either to discuss an existing complaint or to make a new complaint, and this is manifestly unjustified, inappropriate or an improper use of the Council's time and procedure, and is disruptive, it may be reasonable to ask complainants to put their concerns in writing.
- b) Care must be taken before making a decision that communications will not be accepted by telephone that the complainant is able to communicate in writing as requested and has a contact address/email address with which we can correspond.
- c) If the complainant or customer persists with unreasonable or unacceptable behaviour (as described above), it may be reasonable to tell the complainant that the Council will, for a set period, not accept telephone calls and will only deal with the complainant in writing. These restrictions are explained in more detail in the section titled "Imposing Restrictions".

17. Deciding the course of action to be taken

- a) It is important not to spend large amounts of time on unreasonably persistent complainants, but skill will be needed to try and avoid inflaming an already difficult situation.
- b) It may be worth spending some time defusing a situation, rather than taking a hard line and then spending even more time holding that line. The best way of handling the situation will be a matter of judgement and should in the first instance be considered by the Service Manager. Support and advice can be sought from the Head of Service and the Complaints Manager.
- c) If a decision is taken that the complaint is unreasonable and will not be dealt with under the Council's complaints procedure, or will not be progressed to the next stage, this decision must be clearly communicated to the complainant and reasons given.

18. What happens if the Council then receives complaints about the same matter?

- a) No new information – if a complaint is about essentially the same matter that has already been considered, but with very minor differences and does not contain any new information, the following actions should normally be taken:
 - i. If the complainant has not exhausted the Council's Complaints Procedure, they should be referred to the next stage of the procedure, for example, from Stage 1 to Stage 2 of the complaints procedure.

- ii. If they have exhausted the Council's own Complaints Procedure but have not been to the Local Government & Social Care Ombudsman (LGSCO) or the Housing Ombudsman Service (HOS) or the Information Commissioner (ICO) – the right of escalation depends on the subject of the complaint being dealt with – they should be referred to them.
 - iii. If they have been to the LGSCO, HOS or ICO, and they do not agree with their decision, they should be referred back to the independent body.
 - iv. If the complainant does not pursue the complaint at the next stage of the Complaints Procedure, and continues to correspond with the Council, the correspondence must be read. If new matters or information are presented to the Council, the preceding advice should be followed.
 - v. The complainant should also be advised that the Council will not enter into any further correspondence about the matter, other than in the circumstances outlined above.
 - vi. If the complainant does not take this advice, any further correspondence that does not raise any significant new matters or new information should be acknowledged as noted and filed with no further action being taken.
- b) New information- if the complainant provides new information to the Council this must be evaluated or investigated. A response should then be sent to the complainant within the timeframe outlined in the Complaints Procedure. The response must include the escalation paragraph, advising the complainant of the next stage in the procedure.
- c) Complaints about similar matters – this is the most difficult type of vexatious complaint to deal with as the 'new' complaint is often slightly different from the original complaint, but about the same broad area of activity. The Head of Service will have to decide whether the matters raised are sufficiently different to justify being considered as a new complaint.
- d) Complaints about different matters – if a complainant makes complaints about different matters, each complaint should be considered in the usual way under the complaints procedure. If the new complaints are about entirely trivial matters, or matters that have not caused the complainant any injustice it may be appropriate to close the complaint at Stage 1 of the Corporate Complaints Procedure. This should only be done with the agreement of the Service Manager and the Complaints Manager.
- e) The complainant should be advised that they can use the services of the LGSCO, HOS or ICO who are independent of the Council, but this should be a rare occurrence.
- f) It is unlikely that a complaint will be entirely trivial, but if there is a history of making vexatious complaints then the Council's Complaints Procedure will not be used.

19. Imposing restrictions

- a) If the complaint is already being dealt with under the Council's Corporate Complaints Procedure or under the Statutory Social Care Complaints Procedure, we will ensure that the complaint is being, or has been investigated properly according to the relevant complaints procedure.
- b) In the first instance the Service Manager will consult with the Complaints Manager prior to issuing a warning to the complainant. The Service Manager will contact the complainant in writing (letter or email) to explain why their behaviour is causing concern, and ask the complainant/customer to change this behaviour. The Service Manager will explain the actions that the Council could take if the behaviour does not change.
- c) If the disruptive behaviour continues, the Service Manager will issue a reminder letter to the complainant or customer advising them that the way in which they will be allowed to contact the Council in future will be restricted.
- d) If the Council decides to impose a restriction, the Head of Service will make this decision and inform the complainant/customer in writing of what arrangements have been put in place and for what period.
- e) Any restriction that is imposed on the complainant's/customer's contact with the Council will be appropriate and proportionate and the complainant/customer will be advised of the period of time the restriction will be in place for.
- f) In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the Council will review the restrictions on a quarterly basis.
- g) Restrictions will be tailored to deal with the individual circumstances of the complainant or customer and may include the following options:
 - i. Refusing to make contact with the complainant by telephone except through a third party e.g. solicitor/councillor/friend acting on their behalf.
 - ii. Restricting the complainant from sending emails to individual and/or all Council officers or councillors and insisting they only correspond by letter.
 - iii. Corresponding with a named officer only and advising that correspondence sent to any other officers will not be responded to.

- iv. Banning the complainant from attending the Council's offices or premises, for example, the Town Hall or libraries.
 - v. Banning the complainant from attending any Council building except by appointment.
 - vi. Requiring contact to take place with one named member of staff only.
 - vii. Restricting telephone calls to specified days / times / duration.
 - viii. Requiring any personal contact with the customer to take place only in the presence of two officers.
 - ix. Letting the complainant or customer know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence).
- h) When the decision has been taken to apply this policy to a complainant or customer the Head of Service will contact the complainant in writing (and/or as appropriate) to explain:
- i. Why we have taken the decision,
 - ii. What action we are taking,
 - iii. The duration of that action,
 - iv. The customer's/complainant's right of appeal to the decision; and
 - v. The right of the complainant to contact the Local Government & Social Care Ombudsman (LGSCO) about the fact that they have been treated as a vexatious/persistent complainant.
- i) The Head of Service will enclose a copy of this policy in the letter to the customer/complainant or provide a link to the policy available on the Council's website.
- j) Where a complainant or customer continues to behave in a way which is unacceptable, the Head of Service, in consultation with the relevant director of the service concerned, may decide to refuse all contact with the complainant or customer.
- k) Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the Council reserves the right to take action without prior warning to the complainant or customer.
- l) A blanket ban should never be applied for an unspecified period of time.

The Complaints Manager will provide support as necessary to Heads of Service and/or Directors in making decisions to impose restrictions and communicating with customers/complainants.

20. Right of appeal

- a) When a letter is sent to a customer/complainant advising them of a restriction imposed on them, the letter will include information about the customer's/complainant's right of appeal against the decision.
- b) If the customer/complainant decides to appeal the Council's decision, the appeal will be reviewed by the line manager of the person who has made the decision.
- c) The result of the appeal will be communicated to the customer/complainant in writing.
- d) The customer/complainant will be given a timescale by when they can request an appeal. This will usually be one month from the date of the Council's letter.

21. New complaints from complainants who are treated as abusive, unreasonable or persistent

- a) New complaints from people who have come under this policy will be treated on their merits. The Head of Service, with support from the Complaints Manager when necessary, will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint.
- b) We do not support a "blanket policy" of ignoring genuine service requests or complaints where they are founded.

22. Review

- a) The status of a customer or complainant judged to be unreasonably persistent or vexatious will be reviewed by the Service Manager or Head of Service who has made the decision to impose the restriction. The review will take place shortly before the end date of the period of restriction.
- b) The complainant will be informed in writing (by letter or email) of the result of this review if the decision to apply this policy to them has been changed or extended.
- c) The date of the review, details of the consideration made and the date when the restriction expires or is extended should be recorded in the contact log.

23. Referring unreasonably persistent complainants to the Ombudsman or independent body

- a) In some cases, relations between the Council and unreasonably persistent complainants or customers break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome.
- b) In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs, the Ombudsman or other relevant independent body may be prepared to consider a complaint before the procedure has run its course.

24. Record keeping and sharing of information

- a) Adequate records will be retained by the appropriate Service Manager of the details of the case and the action that has been taken (see “Gathering Evidence”). The Service Manager will retain a record of:
 - i. The name and address of each customer who is treated as abusive, vexatious or persistent.
 - ii. When the restriction came into force and when it ends.
 - iii. What the restrictions are.
 - iv. When the customer, Council’s departments and any other services were advised of the restrictions.
- b) The fact that a complainant or customer is judged to be unreasonably persistent and any restrictions imposed on our contact with them, will be recorded and notified to those who need to know within or outside of the Council.
- c) When making a decision to share information within the Council and with third parties, the Council will always be guided by the provisions of the Data Protection Act (DPA) and the General Data Protection Regulations (“GDPR”) and will ensure that the complainant’s or customer’s rights to have their information processed in accordance with the statutory requirements is protected and adhered to.

25. Support for staff

- a) For Council staff and councillors who are affected by unreasonable or abusive or vexatious behaviour from customers, a confidential counselling service and information are available through Workplace Options. This service is available free of charge 24 hours a day, every day of the year. Further information and contact details are available on the Council’s Intranet.

26. Contact log and templates

- a) A spreadsheet containing a contact log and templates for issuing warning or ban letters to customers are available for staff on the Council's Intranet.