

Reference number

Approved by: Management Board

Date approved:

Version: 5

Last revised: September 2017

Review date: 2020

Category

*Owner: Equality, Resilience and Information Compliance
Manager*

*Target audience: Members of the public and others who
contact the council, councillors, council managers and
employees*

Unreasonable Behaviour Policy (External)

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This policy should be read in conjunction with the "[Access to Information Policy](#)".

Council managers and employees should also refer to the
"Procedure to Support the Unreasonable Behaviour Policy (External)".

Introduction

This policy has been produced to create a joint understanding of what is considered acceptable and unacceptable behaviour when working with officers and councillors of Herefordshire Council. It includes dealing with abusive, persistent or unreasonable behavior and vexatious complaints from members of the public. It also includes the identifying of potentially violent individuals on the councils electronic management systems. The council is keen to positively and proactively work with customers to resolve issues, using its resources to achieve the best outcomes for the county and, specifically, the most vulnerable.

This policy has four main sections:

- Section 1: Unreasonable behaviour when contacting Herefordshire Council
- Section 2: Vexatious/persistent complainants
- Section 3: Options to restrict and manage contact
- Section 4: Record keeping and monitoring of those who are subject to the unreasonable behaviour policy

The purpose of this policy

- To define the behaviours that are not acceptable to the council, including behaviour exhibited by people making formal complaints.
- To ensure that the ability of staff and councillors to conduct business is not adversely affected by individuals who behave in an unreasonable manner.
- To ensure our employees and councillors have a safe working environment and are not exposed to unnecessary stress, harassment or violence due to the unacceptable behaviour of others, and that they are supported as appropriate.
- To ensure that council employees and councillors are able to deal confidently and effectively with unreasonable behaviour.

Who does this policy apply to?

This policy applies to all members of the public and all those who have contact with the council.

Section 1:

Unreasonable behaviour when contacting Herefordshire Council

The council has a duty of care to its employees and councillors to protect them from avoidable stress and upset at work and to use policies and procedures to protect them from what we consider to be unacceptable levels or types of contact. We recognise that, when you contact the council, you may have reason to feel aggrieved, upset or distressed. However it is not considered acceptable when these feelings become aggressive and are directed towards individual employees or councillors.

1.1. What behaviour is unreasonable?

- 1.1.1. Unreasonable behaviour is behaviour or language, in whatever form whether face to face, by telephone, social media, SMS (text message) or written that may cause employees or councillors to feel intimidated, threatened or abused. Examples may include:
 - threats of violence
 - verbal abuse
 - racist or sexist language
 - derogatory remarks
 - offensive language
 - rudeness
 - making inflammatory statements
 - raising unsubstantiated allegations
 - any form of physical abuse
- 1.1.2. We do not view assertive behaviour (for example, putting forward your case in a persuasive manner) as unreasonable.
- 1.1.3. However, we will manage behaviour that is aggressive, violent, threatening rude or abusive, or which places unreasonable demands on our employees or councillors under this policy.

1.2. Unreasonable requests and communication

- 1.2.1. Requests may be considered unreasonable either by the nature and/or scale of service expected. Examples may include:
 - requesting a response within unreasonable timescales
 - insisting on speaking with certain employees/officers/councillors
 - adopting a "capture-all" or "scatter gun" approach by contacting many employees, councillors and third parties about the same issue
- 1.2.2. Communication may be considered unreasonable if, for example, individuals:
 - continually contact us while we are in the process of looking at a matter
 - make a number of approaches about the same matter without raising new issues
 - refuse to accept a decision made where explanations for the decision have been given
 - continue to pursue complaints/issues which have no substance
 - continue to pursue complaints/issues which have already been investigated and determined
 - continue to raise unfounded or new complaints arising from the same set of facts

- 1.2.3. We recognise that our resources, including employee 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.
- 1.2.4. Sometimes, due to the volume of work with which we deal, we may not be able to respond immediately to customer requests. This does not mean that those concerns are any less important to us. If we have asked for a customer's patience but that customer continues to pursue their concerns, we may consider such behaviour to be unreasonable.

1.3. Unreasonable communication through social media

- 1.3.1. Social media is a rapidly changing area of technology that many councils are using to build relationships with new and existing customers/residents. However this form of communication can sometimes be used to bully and harass employees and councillors. Many social media users have got into trouble simply by failing to observe basic good manners online. All social media users should adopt the same level of courtesy used when communicating via email, telephone or face to face.
- 1.3.2. If a member of the public posts a message that may cause offence - or is otherwise unsuitable - about an employee or councillor, the council will do its best to have that post removed from the social media site.
- 1.3.3. When social media is used inappropriately (cyber bullying), the service area will try to identify the offender, take steps to remove the offending material from view and, where appropriate, initiate action against the offender.
- 1.3.4. Inappropriate content includes: pornography, racial or religious slurs, gender-specific comments, information encouraging criminal or terrorism activity, threats, abuse or personal comments which may be regarded as defamatory. This definition of inappropriate content or material also covers any text, images or other media that could reasonably offend someone on the basis of race, age, sex, religious or political beliefs, national origin, disability, sexual orientation or any other characteristic protected by law.

1.4. How we will manage unreasonable behaviour

- 1.4.1. All council employees and councillors have the authority to manage unreasonable behaviour. The council has a zero-tolerance position on physical violence, verbal abuse, threats or harassment against our employees and councillors. Any personal assault against its employees or councillors will be reported to the police, who may decide to prosecute.
- 1.4.2. The decision to invoke this policy and place restrictions on an individual will be taken by an assistant director or a director of the service area that has been affected by the unreasonable behaviour. In the case of councillors, this will be a joint decision between the Governance Manager and Monitoring Officer.

- 1.4.3. For individuals whose behaviour has been found to be unreasonable, Herefordshire Council has developed a list of possible ways in which their contact with us can be managed or restricted. These options can be found in section 3. Any one of the options, or a combination of these, may be applied to an individual.
- 1.4.4. In cases where employees or councillors have felt physically threatened by a potentially violent individual, we will consider placing a violent warning marker on our electronic records management systems (see section 3).
- 1.4.5. In all cases, the council will only place restrictions on an individual if we have informed them that their behaviour is unreasonable and have asked them to modify their behaviour. We will explain what action will be taken if the warning is ignored. If they do not modify their behaviour, we will take steps to restrict their communications/contact with us.
- 1.4.6. If we decide a restriction is appropriate, we 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 the unreasonable behaviour.
- 1.4.7. We will be transparent, and will write to the individual to explain what restriction we are putting in place, our reasons for doing so, and how long the restriction will apply.
- 1.4.8. The restrictions will be in place for a minimum period of 3 months and the review period can be on a 3, 6 or 12 month basis. The individual will be informed of the review date in the original explanatory letter.
- 1.4.9. We will inform the individual of the result of the review and if the decision to apply this policy and the restriction that we have put in place has been changed or extended.
- 1.4.10. If the council has already made a reasonable adjustment for the individual, this will be taken into account when deciding upon the appropriate course of action.

Section 2: Vexatious/persistent complainants

2.1. Clarification

- 2.1.1. An individual can only be described as “vexatious or persistent” if they demonstrate unreasonable behaviour while making (or having made) a formal complaint through our Access to Information Policy (corporate complaints) or the statutory Children’s Representations & Complaints Procedure.
- 2.1.2. 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.

2.2. How we deal with complaints

- 2.2.1. We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner. All our formal corporate complaints are dealt with through the Information Access Team.
- 2.2.2. Complaints about Children’s Services and Children’s Social Care will be dealt with under a separate statutory procedure (“Children’s Representations & Complaints Procedures”). These are co-ordinated by the Children’s Quality Assurance Team, managed by the Children’s Complaint Manager.
- 2.2.3. Complaints regarding elected members are dealt with by the Monitoring Officer.

2.3. What do we mean by unreasonable behaviour

- 2.3.1. Unacceptable behaviour is defined above (section 1.1) and can be applied to complainants going through the formal complaints process.
- 2.3.2. We will not normally limit the contact which complainants have with council employees or councillors, however we do not expect employees or councillors to tolerate unacceptable behaviour by complainants or any customer.
- 2.3.3. We will take action to protect employees from unreasonable behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy, which may include invoking one or more of the options detailed in section 3.
- 2.3.4. 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 a vexatious or unreasonably persistent complainant.
- 2.3.5. 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 vexatious or unreasonably persistent.

2.4. Definitions

- 2.4.1. We have adopted the Local Government Ombudsman's (LGO) definition of ***“unreasonable complainant behaviour”*** and ***“unreasonable persistent complaints”***.
- 2.4.2. We define unreasonably persistent and vexatious 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. The description “unreasonably persistent” and “vexatious” may apply separately or jointly to a particular complainant.
- 2.4.3. Examples include the way or frequency that complainants raise their complaint with employees, or how complainants respond when informed of our decision about the complaint.
- 2.4.4. Features of an unreasonably persistent and/or vexatious complainant include the following (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):
- 2.4.5. **An unreasonably persistent and/or vexatious complainant may:**
- have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)
 - refuse to specify the grounds of a complaint despite offers of assistance
 - refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
 - refuse 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 (eg. parking ticket and planning appeals)
 - refuse to accept that 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)
 - make what appear to be groundless complaints about the employee or councillors dealing with the complaints, 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 or complaints
 - make persistent and unreasonable demands or expectations of employees, councillors and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails)
 - harass or verbally abuse or otherwise seek to intimidate employees or councillors dealing with their complaint, by use of foul, inappropriate, offensive or racist language
 - raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
 - introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
 - change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
 - deny statements he or she made at an earlier stage in the complaint process

- electronically record meetings and conversations without the prior knowledge and consent of the other person involved
- adopt an excessively “scatter gun” approach, for instance, pursuing a complaint not only with the 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 police, solicitors, and the Local Government Ombudsman
- refuse to accept 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
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these new complaints which should be put through the full complaints procedure
- persistently approach the council through different routes about the same issue
- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons
- refuse to accept documented evidence as factual
- complain about or challenge an issue based on a historic and irreversible decision or incident
- combine some or all of these features
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice.

2.5. How we will manage vexatious or persistent complainants

- 2.5.1. The information access team will bring to the attention of the Monitoring Officer if a complainant is becoming persistent or vexatious. When the decision has been taken to apply this policy, a warning letter will be sent from the service area to the complainant that unless the behaviour changes the policy will be invoked. A copy of the letter will be sent to the Monitoring Officer.
- 2.5.2. If the behaviour persists, the Monitoring Officer may make the decision to make the individual a vexatious complainant. The Monitoring Officer will contact the complainant in writing to explain:
- why we have taken the decision
 - what action we are taking (see the list of options in section 3)
 - the duration of that action
 - the review process of this policy
 - the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as a vexatious/persistent complainant
- 2.5.3. The Monitoring Officer will enclose a copy of this policy in the letter to the complainant.
- 2.5.4. Where a complainant continues to behave in a way which is unacceptable, the Monitoring Officer, following consultation with the Director for Economy, Communities and Corporate, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

2.5.5. Where the behaviour is so extreme or it threatens the immediate safety and welfare of our employees or councillors, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action.

2.6. New complaints from complainants who are treated as abusive, vexatious or persistent

2.6.1. New complaints from people who have come under this policy will be treated on their merits. The Monitoring Officer will decide whether any restrictions applied previously are still appropriate and necessary in relation to the new complaint. We do not accept a “blanket approach” of ignoring genuine service request or complaints where they are founded.

2.6.2. The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know within the council.

2.7. Review

2.7.1. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Monitoring Officer after three months and at the end of every subsequent three months within the period during which the policy is to apply.

2.7.2. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.

2.8. Referring unreasonably persistent or vexatious complainants to the Local Government Ombudsman

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

Section 3:

Options to restrict and manage contact

If individuals continue to behave unreasonably after we have asked them to modify their behaviour, the options we will consider are:

Option 1:

Requiring you to contact a named employee(s) only (single point of contact or “SPOC”).

Option 2:

Restricting contact (whether via telephone, face to face, or digital) to specified places, days and times, as agreed with you.

Option 3:

Terminating contact if you persistently raise issues to which we have already responded in full, no matter how these contacts are made (eg. phone, digital, letter). If we believe a pseudonym is being used, we will seek to confirm the true identity.

Option 4:

Terminating contact if you are aggressive, rude, abusive or offensive. As in Option 3, if we believe a pseudonym is being used, we will seek to confirm the true identity.

Option 5:

If you have threatened our employees or councillors with physical violence be it verbal, face to face, in writing or in any other form, we may place a warning marker on any electronic records management system where we hold your records.

Option 6:

Restricting the issues we will correspond on.

Option 7:

If you send us a large volume of irrelevant documentation, we may return these documents to you. In extreme cases we will advise you that further irrelevant documents will be destroyed.

Option 8:

If we have already fully explained our reasons for a decision and you have exhausted the procedure to request a review of that decision, 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.

Option 9:

We may block or re-direct your emails to a single point of contact (SPOC) if the number and length of emails sent causes difficulties for us to conduct our business.

Option 10:

We will not respond to correspondence (eg. letter or e-mail) which is abusive or offensive.

Option 11:

If you make a large number of reports to us which 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 our employee resources are used in an appropriate way.

Option 12:

If you post derogatory, defamatory, offensive or threatening remarks on social media we will ask the site to remove them and try to block your account.

Option 13:

If you become aggressive, threatening or uncooperative to employees or other members of the public in a council owned premise we may ask you to leave and ban you from attending/ entering council owned premises for an agreed period.

Section 4:**Record keeping and monitoring of those subject to the unreasonable behaviour policy**

- 4.1. Adequate records will be retained by the appropriate service manager of the details of the case and the action that has been taken where this policy has been invoked. The Information Access Team will retain a central record of:
 - The name and address of each customer who is treated as abusive, vexatious or persistent and is being managed under this policy
 - The name and address of anyone that has been identified as potentially violent towards our staff or councillors and has a warning marker on one of our records management systems
 - When the restriction came into force and ends
 - What the restrictions are
 - When the customer and departments were advised
- 4.2. Where a person has been identified as potentially violent and we have an electronic records management system that already contains details of the individual or premises, we will activate a warning marker on the system. We will generally notify the individual, however there may be exceptional circumstances in which we would decide not to notify them (eg. if we believe that doing so might provoke a violent reaction).
- 4.3. The lead executive member for complaints will be provided with an annual report giving information about customers who have been treated as vexatious/persistent or unreasonable under this policy.