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South & East Lincolnshire Councils Partnership

UNREASONABLE BEHAVIOUR POLICY

POLICY FOR DEALING WITH UNACCEPTABLE CUSTOMER BEHAVIOUR AND UNREASONABLY PERSISTENT COMPLAINANTS

1. INTRODUCTION

The Council welcomes the opportunity to hear from its customers when services are appreciated, but also wants to know when things go wrong. We are committed to dealing with all interactions with the Council, including complaints and general communications, and to provide a high-quality service to those who make them in order that we can continuously seek to improve our service, systems, and procedures.

As part of this service, the Council does not normally limit the contact that customers have with its Officers. Persistence in a matter, if justified, should not be considered unreasonable.

However, a very small minority of customers make complaints that are aggressive, abusive, unreasonable, or unreasonably persistent in order to make life difficult for the Council or individuals, rather than genuinely to resolve a grievance.

The Council aims to deal fairly, honestly, consistently, and appropriately with all customers, but we retain the right to restrict or change access to our services where we consider a customer's actions to be unacceptable.

This policy addresses these issues and sets out our approach to those relatively few customers whose actions or behaviour we consider to be unacceptable.

This policy is consistent with anyone's rights under the Data Protection Legislation, Freedom of Information Act 2000, and Environmental Information Regulations 2004.

2. PURPOSE AND OBJECTIVES

The purpose of this policy is:

- To make it clear to all customers, both at initial contact and throughout their dealings with the Council, what the Council can or cannot do in relation to their complaint, in accordance with the Customer Feedback Policy. In doing so, the Council aims to be open and not raise hopes or expectations that it cannot meet.
- To provide a service that is accessible to all customers. However, the Council retain the right, where we consider complainant actions to be unacceptable, to restrict or change access to our service.
- To deal fairly, honestly, consistently, and appropriately with all customer contacts, including those whose actions we consider unacceptable. The Council believes that all customers and Council employees have the right to be heard, understood, and respected.
- To give the Council a framework to implement and take appropriate action against those customers who are deemed to be raising persistent, abusive, or unreasonable complaints or harassing council employees or harassing members.
- To help members, staff and partners understand what options for action are available, and who can authorise these actions. It also assists staff to manage the expectations and behaviour of complainants while their complaint is addressed and when they can legitimately refuse a request for information.

The objectives of this policy are to:

- Protect members, staff, and partners from abusive and unacceptable behaviour from customers;
- Protect members, staff, and partners from unreasonable, aggressive, or violent behaviour by customers;
- Ensure staff and customers understand how they can deal with unreasonably persistent requests for information.

3. DEFINITION OF UNACCEPTABLE ACTIONS BY CUSTOMERS

People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a customer contacting the Council. The Council does not view behaviour as unacceptable just because a customer is forceful or determined. However, the actions of customers who are angry, demanding or unreasonably persistent may result in unacceptable demands or behaviour towards Council employees. It is these actions that the Council considers unacceptable and aims to manage under this Policy in order to fulfil its duty of care to staff and prevent unnecessary resource drain on the Council.

The Council has grouped these actions under three broad headings and further examples may be found at **Page 13** of this Policy.

<u>Aggressive or Abusive Behaviour</u>

a. The Council expect their staff to be treated courteously and with respect. Violence, unwanted physical contact, or abuse towards staff is unacceptable. The anger felt by many customers involves the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards Council staff.
b. The language a customer may direct towards our employees can, in times of distress or anger, become personally offensive. If the language or behaviour of a customer appears to be linked to the employee belonging to, or perceived as belonging to, one of the protected characteristics under the Equality Act 2010, this will not be accepted.
c. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written, or on social media) that may cause staff to feel afraid, threatened or abused.
d. Examples of behaviours grouped under this heading include threats, physical violence, personal verbal abuse, derogatory remarks, and rudeness. The Council also considers that inflammatory statements and unsubstantiated allegations can be abusive behaviour.
e. Where physical violence has been used or threatened towards staff or their families/associates at any time, this will, in itself, cause personal contact to be discontinued. Thereafter, only one form of contact will be used such as correspondence in writing. All such incidents will also be documented on the Cautionary Contact Register and in the first instance

reported to the line Manager/Assistant Director and notified as appropriate to the police.

Unreasonable Demands

a. Customers may make what the Council considers unreasonable demands on the Council, for example through:
    - the amount of information they seek;
    - the nature and scale of service they expect;
    - the number of approaches they make.

What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.

b. Examples of actions grouped under this heading include but are not limited to:
    - demanding responses within an unreasonable timescale;
    - insisting on seeing or speaking to a particular member of staff;
    - continually making phone calls or sending letters or emails without allowing time for a response;
    - repeatedly changing the substance of the complaint;
    - raising unrelated concerns.

The Council considers these demands as unacceptable and unreasonable if they start to impact substantially on the work of the Council, such as taking up an excessive amount of staff time to the disadvantage of other customers or functions.

Unreasonably Persistent

a. The Council recognises that some customers will not or cannot accept that the Council is unable to assist them further or provide a level of service other than that provided already. Customers may persist in disagreeing with the action or decision taken in relation to their complaint, service request or contact the office persistently about the same issue.

b. Examples of actions grouped under this heading include:
    - persistent refusal to accept a reasonable decision made in relation to a complaint or service request;

- persistent refusal to accept explanations relating to what the Council can or cannot do;
- continuing to pursue a resolved complaint or service request without presenting any new information.

The way in which these customers approach the Council may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

c. The Council considers the actions of customers who may be considered persistent to be unacceptable when they take up what is regarded as being a disproportionate amount of time and resources.

4. MANAGING UNACCEPTABLE ACTIONS BY CUSTOMERS

There are relatively few customers whose actions the Council considers unacceptable. How the Council aims to manage these actions depends on their nature and extent. If it adversely affects the Council's ability to do its work and provide a service to others, the Council may need to restrict customer contact with the Council in order to manage the unacceptable action.

The Council and its staff will ensure that all attempts are made to maintain effective communication and positive relationships with customers. Prior to taking action under this policy, officers will ensure that:

- Every reasonable effort has been made to investigate the complaint;
- Every reasonable effort has been made to communicate with the customer;
- The customer is not now providing any significant new information that might affect the Council's view of the complaint

In most instances if the Council consider behaviour is unreasonable, we will explain why, and ask for change. We will also warn that, if the behaviour continues, we may take action to restrict contact with us. Where behaviour is so extreme that it threatens the immediate safety and welfare of our staff, we may report the matter to the police or consider taking legal action. In such cases where there is immediate risk, we may not give prior warning.

The Council will aim to manage contact in a way, wherever possible, that allows a complaint or service request to progress to completion through the Council's regular procedures or allow a customer to raise a new separate complaint or service request. We may restrict a person from face-to-face contact directly with employees and move instead to communicate through email, telephone or letter or a combination of these. The Council will try to maintain at least one form of contact.

The Council will inform the customer in writing that their name is on a 'restricted contact' list, which is maintained by the Information Governance Team. Depending on the severity of restriction this may be shared with other teams, or organisations.

5. DECISIONS ON RESTRICTING CUSTOMER CONTACT

If a customer is considered to be displaying unreasonable, unacceptable, or abusive behaviour, or being unreasonably persistent the relevant Service Manager will consult an Assistant Director for a decision regarding restricting contact. The Assistant Director will make the final decision on the action to be taken following consultation with the Group Information Governance Manager to ensure policy adherence.

In the event of an active incident where there is a threat, the Council has a separate procedure for dealing with immediate direct risk and management of those threats.

Under certain circumstances, the Council may need to place an immediate restriction on an individual's access to services – where possible this decision will be made at Service Manager Level and followed up promptly to gain an Assistant Director's approval.

The Council will record the following information in support of any decision to restrict contact:

- information about the decision-making process:
    - details of the decision maker
    - what limits will be placed on contacts
    - when limits can be lifted or if they should continue and for how long
- advice about who in the Council will be informed that contact with a named complainant is being restricted and why
- links with other Council policies.

Notices, warnings, and decisions will be retained along with the register of decisions and lodged with the Information Governance Team to demonstrate compliance.

6. RESTRICTING CONTACT

Any actions taken by the Council will be proportionate to the nature and frequency of the complainant's current contacts. The Council's objective is to manage the complainant's unreasonable behaviour in such a way that their complaint can be concluded quickly, without further distractions. The following options may be suitable, taking the complainant's behaviour and circumstances into account.

Options could include, but are not limited to:

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for necessary calls.
- Limiting the complainant to one medium of contact (telephone, letter, email etc).
- Requiring the complainant to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness and in a suitable location.
- Refusing to register and process further complaints about the same matter.
- Refusing access to the buildings for a defined period,

A designated officer will be identified to read future correspondence.

If a decision is taken to apply restricted access, the Council will write to the complainant with a copy of the policy to explain:

- why the decision has been taken
- what it means for their contact with the organisation
- how long any limits will last, and
- what the complainant can do to have the decision reviewed.

The Council will keep adequate records to show:

- when a decision is taken to apply the policy
- when a member of staff asks for this to be done, or
- when a decision is taken to make an exception to the policy once it has been applied, or

- when a decision is taken not to respond to further correspondence, any further letters, faxes, or emails from the complainant will be checked to pick up any significant new information. Officers will tell the complainant that future correspondence will be read and placed on the file but not acknowledged unless it contains material new information.

If contact is made regarding a new issue, this will be treated on its own merits. The Council will consider whether any restrictions previously applied are still appropriate and necessary.

7. WITHDRAWING RESTRICTION

7.1 Individuals right to appeal.

Customers have a right to appeal a decision made by the Council regarding restrictions placed on individuals. At each stage of the process, there will be a statement describing how to appeal.

The appeal process will be simple and accessible. The appeal will be collected by the Information Governance team and passed to a suitable Assistant Director (or Deputy Chief Executive) to consider if the action was proportionate, necessary, and there was a correct application of the policy. A record of this appeal will be held for up to 2 years beyond the cessation of any conditional access.

The purpose of this appeal process is to ensure that individuals are not unduly disadvantaged, and to comply with guidance from the LGSCO.

Once the internal appeal process is exhausted the individual may be referred to the LGSCO for final arbitration.

7.2 Periodic review of Restriction.

When imposing a restriction on access, customers/complainants will be given a specified review date.

Reviews will be undertaken at Assistant Director level, supported by the team that originally identified the issues, along with support from the Information Governance team.

Limits will be lifted, and relationships returned to normal unless there are good grounds to extend them. The Council will inform the complainant of the outcome of the review.

Reviews may completely lift any restriction or amend the severity of the limitations applied.

If limits are to continue, officers will explain the reasons and state when the limits will next be reviewed.

8. INFORMING NECESSARY INTERESTED PARTIES.

Individuals subject to action under this policy will be advised formally of the decision. This will include advising that the Council will inform other organisations that may need to know that a customer/complainant has limited access to Council services. This is both for the management of the risk, but also should that organisations services be required to facilitate the customer's needs.

The Council **do not** need consent to share information where it is proportionate to do so but do need to advise the individual of that sharing.

Where customers are identified as also requiring adding to the cautionary contact register, it will also be necessary to share that risk information with local partners.

Any addition to the cautionary contact register will be shared with all S&ELCP councils and their partner organisation PSPS. Customers will be advised as part of the cautionary contact process that this will happen.

Examples of customer behaviours or complaints that may be unreasonable, abusive, or unreasonably persistent. This is not an exhaustive list.

1. Harassment in any form to Members, Staff, or partner agencies; or other individuals present in Council buildings.
2. Seeking to coerce, intimidate or threaten staff or other people, whether by use of language, tone of voice or behaviour including body language or through posts on social media.
3. Causing damage to Council buildings, furniture, and equipment in a manner to cause distress.
4. Making what appear to be groundless complaints against staff or Members or attempting to use the complaints procedure to pursue a personal vendetta against a Councillor or Member of staff.
5. Making unnecessarily excessive demands on the time and resources of Council staff whilst a complaint or request is being looked into.
6. Lodging numbers of complaints/requests for information in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure.
7. Refusal to accept that issues are not within the remit of the Council for example overturning of court decisions, dismissal or criminal prosecution of staff or decisions of the Local Government and Social Care Ombudsman.
8. Persistence in contacting the Council and demanding responses or action long after the Council has closed the enquiry/investigation into a matter and all rights of review and appeal have been exhausted.
9. Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a Councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the Ombudsman.
10. Behaviour which has a significant and disproportionate adverse effect on the Council's resources and other residents.