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Consultation Log

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Introduction

Every day, Herefordshire Council deals with thousands of customer contacts quickly, effectively and without incident. This policy explains how we will deal with the small number of cases where the actions of individuals become unacceptable or unreasonable.

We expect our staff and councillors to treat individuals with courtesy, respect, and fairness. We also expect our staff and councillors to be treated in the same way and will act to protect their welfare and safety. Acts of intimidation or violence towards staff will not be tolerated.

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 behaviour and vexatious complaints from members of the public. It also includes the identifying of potentially violent individuals on the council's electronic management systems (Teams and Mosaic). 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.

We accept that people may act out of character in times of trouble, distress, or frustration. We also accept that customers may be unhappy when they contact us or may not agree with the Council's actions. We do not view behaviour as being unacceptable just because a customer is forceful or determined.

The safety of our staff whilst carrying out their duties will be of paramount importance and our duty of care towards our staff will be the main priority, whilst at the same time balancing the rights of customers to access our services.

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 areas of our work
- Anyone who contacts us, including existing or potential customers, representatives, and businesses
- All methods of contact including telephone, face-to-face, letters, e-mails, social media, and other digital channels

Equality, diversity, and inclusion

The Equality Act 2010 protects people from unlawful discrimination in the provision of services and public functions, employment, premises, education and associations.

The Equality Act says public authorities should think about the need to:

- remove or reduce disadvantages suffered by people because of a protected characteristic
- take steps to meet the needs of people with certain protected characteristics where these are different from the needs of other people

We are always mindful of our duty towards our customers, and recognise that an individual's social identity, background and life experiences can impact on how they communicate with Herefordshire Council.

Some customers may have difficulty in communicating with us clearly and appropriately. Sometimes that may be because of a mental health condition, disability, neurodiversity, or language barrier. In all cases, we will consider the individual's needs, and those of our staff, before deciding how best to manage the situation. We will always ask customers whether they need the Council to make any changes to the way we communicate with them, to ensure they do not face any avoidable barriers, and we will then consider making reasonable adjustments.

Some customers may experience disadvantage or discrimination in their normal day-to-day life as a result of a protected characteristic. We acknowledge that this may have an impact on how they will react to other situations that they encounter, such as communicating with Herefordshire Council staff. We will always try to take into account the difficulties faced by our customers, and work with them to ensure that they are able to fully engage with us.

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 or personal and are directed towards individual employees or councillors.

1.1. Definition of unreasonable behaviour

1.1.1. Unreasonable behaviour is behaviour or language in any 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 and news outlets

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 ("sanctions") on an individual will be taken by a senior manager or a service 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. Before we make any decisions under this policy, we will conduct a review of what has happened, and we will always consider the customer's individual needs and circumstances. A decision to enact this policy will only be made in circumstances where all reasonable efforts have been made to find an alternative solution.

1.4.4. 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 sanctions can be found in section 3. Any one of the sanctions, or a combination of these, may be applied to an individual.

1.4.5. In cases where employees or councillors have felt physically threatened by a potentially violent individual, we will place a violent warning marker on our electronic records management systems (see section 4.8).

1.4.6. In all cases, the council will only place sanctions 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.

1.4.7. If we decide a sanction is appropriate, we will consider which of the options best fits the circumstances. The level of sanction that we apply will be proportionate, taking into account the nature, extent and impact of the unreasonable behaviour.

1.4.8. We will be transparent, and will write to the individual to explain what sanction we are putting in place, our reasons for doing so, and how long the sanction will apply.

1.4.9. The sanctions 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.

1.4.10. We will inform the individual of the result of the review, and if the decision to apply this policy and any sanctions has been changed or extended.

1.4.11. 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. Definition of vexatious or persistent behaviour

2.1.1. An individual can be described as vexatious or persistent if they demonstrate unreasonable behaviour while making (or having made) a formal complaint through our Corporate Complaints Policy (corporate complaints) or the statutory Children's Representations & Complaints Procedure.

2.1.2. The behaviour is exhibited when people pursue their complaints in a way which either impedes the investigation of their complaint, or requires significant council resources. 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 Complaints 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 Complaints Team, and managed by the Complaints Manager.

2.2.3. Complaints regarding councillors 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 sanctions 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 & Social Care Ombudsman's (LGSCO) 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. Unreasonable actions are those which, because of the nature or frequency of contact with an organisation, hinder the organisation's delivery of services or consideration of complaints.

2.4.5. Some unreasonable actions emerge over time as complainants become more persistent in pursuit of their complaint. It should be recognised that many complainants act in a legitimate but persistent manner in order to pursue their complaint. Therefore, it is important to recognise the difference between "persistent" and "unreasonably persistent" actions.

2.4.6. Features of an unreasonably persistent and/or vexatious complainant include the list in the section 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).

2.4.7. An unreasonably persistent and/or vexatious complainant may:

- Have insufficient or no grounds for their complaint and be making the complaint only to frustrate (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. For example, failing to provide information requested that is important for the investigation
- 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
- 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
- Insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice
- Put, or threaten to put, information on social media or websites which includes personal information of employees without their consent and/or make defamatory statements about employees online
- Make excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed correspondence every few days or more often, and request immediate responses
- Raise many detailed but unimportant questions, and insist they are all answered
- Provide false information and/or submit falsified documents from themselves or others
- Adopt a 'scatter gun' approach; pursuing parallel complaints or contact about the same issue with various organisations such as: a Member of Parliament, other councils, elected councillors of this and other councils, the council's independent auditor, the police, solicitors, and the LGSCO
- Combine some or all of these features

2.4.8. Where behaviour is so extreme that we consider it to be an immediate threat to the safety and welfare of staff or others, a senior manager will consider whether it is necessary to report the matter to the Council's Legal Team and/or the Police to consider taking legal action. In such cases we may not give a warning to the individual but will inform them of the steps taken as soon as is appropriate.

2.5. How we will manage vexatious or persistent complainants

2.5.1. Staff will give informal warnings to individuals who act in an unreasonable way. This gives individuals an opportunity to modify their actions. Should individuals continue to act in an unreasonable way then the staff member will escalate the matter to their manager for further consideration.

2.5.2 The Complaints 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 formal 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
- Actions the organisation considers unreasonable
- A time period within which future actions will be monitored and when, how and by whom any restrictions on contact or other actions will be reviewed
- Consequences of failing to address their actions
- Details of the organisation's complaints process if the person is unhappy with their warning
- The right of the complainant to contact the Local Government & Social Care 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 a Senior Manager or Complaints Manager, 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 them, 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 stated.

2.7.2. This policy also allows for the review of sanctions at any time deemed necessary in exceptional cases.

2.7.3. Examples of exceptional cases include more extreme breaches involving threatening behaviour to staff, repeated or persistent failure to comply despite having imposed sanctions or as soon as sanctions are lifted. The definition of what constitutes an exceptional case will be determined by the Corporate Complaints Team in conjunction with the relevant Directorate representative and policy owner and judged on a case-by-case basis.

2.7.4. Individuals who fall under this policy will be informed in writing of the result of any review of their case.

2.7.5. There is no appeal against the imposition of any sanctions.

2.8. Further action

2.8.1. In serious cases further action may be necessary, particularly where a complainant's actions are having an adverse impact on staff welfare. Where the organisation is considering placing legal restrictions on an individual's contact or declining to provide a service at all, the Monitoring Officer, along with a Senior Manager, will seek appropriate advice from Legal Services.

2.9. Referring unreasonably persistent or vexatious complainants to the Local Government & Social Care Ombudsman

2.9.1. 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 (“sanctions”)

If individuals continue to behave unreasonably after we have asked them to modify their behaviour, then we may impose one or more of the following sanctions. Sanctions will be tailored and proportionate to address the unreasonable actions in each case. We will aim for the minimum restriction necessary to resolve the matter, whilst safeguarding our staff. The sanctions that we may consider could include (but are not be limited to), the following:

Option 1:

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

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.

Option 14:

Placing correspondence on file without acknowledgement or reply.

Option 15:

Restricting the length and frequency of telephone calls.

Option 16:

Restricting access to Herefordshire Council offices.

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

4.1. In compliance with the council's obligations under data protection legislation, this policy will follow the requirements of the council's existing Information Security and Data Protection policies.

4.2. Information collected and processed under this policy will be the minimum required which may include (but is not limited to) names, addresses, contact details, gender, disability (where relevant), details of the unreasonable behaviour, actions taken, sanctions in place, and timescales.

4.3. Data will be recorded and held within secure systems, the access to which is restricted to authorised officers.

4.4. Cases dealt with under this policy will be reviewed every six months while the sanctions are in place, by the directorate responsible. The Complaints Team will liaise with individual directorates across the council as part of the review process.

4.5. Should individuals need to change any personal details or other information held outside of these six-month reviews, they are to contact the named SPOC within the individual directorate teams or through the Complaints Team.

4.6. 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.

4.7. The Complaints 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 when it ends
- What the restrictions are
- When the customer and departments were advised

4.8. 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).

4.9. Appropriate safeguarding measures will be put in place prior to any face-to-face contact with known offenders.