



Derry City & Strabane
District Council
Comhairle
Chathair Dhoire &
Cheantar an tSratha Báin
Derry Cittie & Stràbane
Destrict Council

Policy on Dealing with Unacceptable Behaviour by Customers or Complainants and Persistent and/or Vexatious Complainants

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Responsible Officer	
Contact Officer	Lead Democratic Services and Improvement Officer
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Review Date	To be reviewed every 3 years. However, the policy will be reviewed sooner in the event of any one or more of the following: <ul style="list-style-type: none">• Failure or weakness in the policy is highlighted• Changes in legislative requirements• Changes in Government/Council or other directives and requirements
File Number	Intranet/policies & procedures/corp/complainants
Associated Documents	Feedback and Complaints Policy Customer Service Charter A Guide to making comments, compliments or complaints Comments, compliments or complaints form Dealing with complaints – an employee guide

1 Preamble

1.1 Purpose

- 1.1.1 Derry City and Strabane District Council's policy on dealing with unacceptable customers and complainant behaviour and persistent and/or vexatious complainants aims to:
- Contribute to the Council's overall aim of dealing with all customers and complaints in ways which are consistent, fair and reasonable;
 - Deal fairly, consistently and appropriately with all complainants, including those whose actions we consider unacceptable, unreasonable or vexatious. We believe that all complainants have the right to be heard, understood and respected;
 - Ensure that Council staff and contractors are treated with respect and are not subjected to verbal or physical abuse by complainants;
 - Provide services that are accessible to all customers and complainants. However, the Council retains the right, where we consider complainant actions to be unacceptable, unreasonable or vexatious to restrict or change access to our services;
 - Ensure that other customers and Council staff or contractors do not suffer any disadvantage from customers and/or complainants who act in an unacceptable manner;
 - Make a positive contribution to staff morale and motivation.
 - The policy sets out how the Council will decide which complaints will be treated as vexatious or unreasonably persistent and what the council will do in these circumstances and where the behaviour of a customer or a complainant is deemed unacceptable.
- 1.1.2 This policy is for the information of staff and elected members as well as complainants and customers.

1.2 Background

- 1.2.1 The Council is committed to being a customer focused organization, providing good customer care and quality, effective services. We have set out the standards of care that customers can expect. In return, we expect customers to treat our staff with respect; be considerate and polite to other customers; and supply us with information, if requested.
- 1.2.2 Dealing effectively with complaints is an essential part of the Council's business, allowing the opportunity for areas for improvement to be identified and addressed.
- 1.2.3 In most cases dealing with the complaint is a relatively straightforward process, but in a minority of cases, people pursue the complaints in a way which can either impede the investigation of the complaint or can have significant resource issues with the Council. This can happen either when the complaint is being investigated or after the Council has finished dealing with the complaint.
- 1.2.4 Having a policy on unreasonably persistent and/or vexatious complainants and unreasonable complainant or customer behaviour and associated staff guidance will help the Council deal with complainants and customers in a way which is demonstrably

consistent and fair. It also helps staff to understand clearly what is expected of them, what options for action are available, and who can authorise these actions.

2 Scope

2.1 Complainant Behaviour

- 2.1.1 This policy covers complainant behaviour which is unacceptable, which may include one or two isolated incidences, as well as unreasonably persistent and/or vexatious behaviour, which is usually an accumulation of instances or behaviours over a longer period.
- 2.1.2 Complaints regarding behaviour of elected members or staff towards each other will be dealt with through Council's Code of Conduct, Grievance and Disciplinary policies or other appropriate mechanism.

2.2 Customers

- 2.2.1 This policy also covers unacceptable customer behaviour including abusive, threatening, and offensive behaviour.

3 Definitions

3.1 Complaint

- 3.1.1 The following description should be used as a framework for defining what a complaint is, but should also be operated flexibly to deal with exceptions to the definition:
- 3.1.2 A complaint is an expression of dissatisfaction by one or more members of the public about:
- The Council's action or lack of action; or
 - The standard of a service provided regardless of whether the action was taken or the service provided by the Council itself, or a person or body acting on behalf of the Council.
- 3.1.3 This definition could include one or more of the following:
- Failure to provide a service to a customer
 - Delay in providing a service to a customer
 - Poor quality service to a customer or a mistake. There is no definition of poor quality in this policy, this is based on the perception of the customer. The Council should either prove the service was not poor quality and to acceptable standards, or apologise and say what it would do differently in future.
 - Provision of an inappropriate service to the customer. There is no definition of inappropriate service in this policy, this is based on the perception of the customer, as above
 - Removal or withdrawal of a service from a customer
 - Charging an inappropriate cost for a service
 - Upset to a customer caused by an employee's behaviour

- Unreasonable disadvantage to the customer caused by Council policy
- Unfair discrimination against a customer.

3.2 Complainant

- 3.2.1 A complainant is defined as someone who has made a complaint either verbally, in writing or via a third party.
- 3.2.2 Third party complaints will only be accepted where the complainant is incapable of making a complaint, such as a minor or a person suffering from an illness or other incapacity.

3.3 Unacceptable behaviour

- 3.3.1 Unacceptable complainant behaviour includes behaviour which is abusive, offensive or threatening and may include:
- Using abusive or foul language on the telephone
 - Using abusive or foul language face-to-face
 - Sending multiple e-mails
 - Leaving multiple voicemails
 - Harassing or otherwise seeking to intimidate staff dealing with a complaint.
- 3.3.2 Unacceptable customer behaviour may include the behaviours identified above as well as behaviours that impact negatively on the enjoyment of other service users.

3.4 Unreasonably persistent and/or vexatious complainants

- 3.4.1 The Council defines unreasonably persistent and /or vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to particular complainant.
- 3.4.2 Examples include the way or frequency that complainant raises their complaint with staff, or how complainants respond when informed of the Council's decision about the complaint.
- 3.4.3 In general terms, persistent refers to the frequency or nature of contacts with the Council which hinders the consideration of an individual's or other people complaints. A vexatious complainant in this context is someone who is not seeking to resolve a dispute between themselves and the Council but rather is seeking to cause unnecessary aggravation or annoyance to the Council.

3.4.4 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).

3.4.5 An unreasonably persistent and/or vexatious complainant may:

- Have insufficient or no grounds for the 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 cooperate with the complaints investigation process, while still wishing the 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
- Refuse to accept where issues are not the remit of the Council to investigate, change or influence
- Insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (e.g. insisting that there must not be any written record of the complaint)
- Make what appears to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- Make an unreasonable number of contacts with the Council, by any means, in relation to a specific complaint or complaints
- Make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (e.g. a complainant who insists on immediate responses to numerous, frequent and/or complex letters, telephone calls, e-mails, etc.)
- Raise subsidiary or new issues whilst the complaint is being addressed that were not part of the complaint at the start of the complaint process
- Introduce trivial or relevant 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 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 aggressively scattergun approach, for instance, pursuing a complaint/complaints not only with the Council, but at the same time with elected members, other councils, the auditor, solicitors, etc.
- 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 conducted, and insist the minor differences make these 'new' complaint(s) 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 the Council has explained is unrealistic for legal or policy (or other valid) reasons

- Refuse to accept documented evidence is factual
- Complain about or challenge an issue based on an historic and irreversible decision or incident
- Combine some or all of the above features.

4 Policy Statement

4.1 Complaints

- 4.1.1 Derry City and Strabane District Council welcomes all customer feedback, including complaints.
- 4.1.2 The Council values feedback about its services and recognises the right of all its stakeholders to complain or make a comment about any Council activity or service. Stakeholders include local residents and businesses, visitors, suppliers of services, community groups and any other group or individual who is affected by our services. The Council is committed to ensuring that it uses stakeholder feedback to help improve services and to focus on the needs of all customers.
- 4.1.3 The Council is committed to dealing with all complaints equitably, comprehensively and in a timely manner and to providing high quality services to those who make them. As part of delivering its services, the Council would not normally limit the contact complainants have with its offices/staff.
- 4.1.4 Whilst we encourage all feedback the Council will take action to protect our staff from abuse, unacceptable and/or aggressive complaints. Council will take the necessary steps to ensure that the actions of vexatious complainants does not impede the effective operation of the feedback policy/Council services.

4.2 Unacceptable Behaviour by Complainants

- 4.2.1 Derry City and Strabane District Council does not expect its staff to tolerate behaviour by complainants which is unacceptable, for example, which is abusive, offensive or threatening and will take action to protect staff was from that behaviour.
- 4.2.2 When the Council considers that a complainant's behaviour is unacceptable, we will tell them why and request them to change it. If the unacceptable behaviour continues, the Council will take action to restrict the complainants contact with offices/facilities/staff.
- 4.2.3 The decision to restrict access to offices/facilities/staff will be taken at Director level. Any restrictions imposed will be appropriate and proportion. The options the Council is most likely to consider it are:
- Requesting contact in a particular form (for example, letters only)
 - Requiring contact to take place with a named officer
 - Restricting telephone calls to specified dates and times; and/or
 - Asking the complainant to enter into an agreement about future contacts with the Council.

- 4.2.4 In all cases we will write to tell the complainant why we believe his or her behaviour is unacceptable, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.
- 4.2.5 Where complainant continues to behave in a way which is unacceptable, the Council may decide terminate contact with a complainant and discontinue any investigation into their complaint.
- 4.2.6 Where the behaviour is so extreme that threatens the immediate safety and welfare of Council staff, we will consider other options, for example, reporting the matter to the PSNI or taking legal action. In such cases, the Council may not give the complainant prior warning of that action.

4.3 Unreasonably Persistent and/or Vexatious Complainants

- 4.3.1 In the small number of incidences where complainants who, because of the frequency of their contact, hinder consideration of their, or other people's complaints, the Council will deem such complainants to be 'unreasonably persistent and/or vexatious' and will, exceptionally, take action to limit their contact with offices/staff.
- 4.3.2 In all cases where we decide to treat someone as an unreasonably persistent and/or vexatious complainant, we will write to tell the complainant why we believe his or her behaviour falls into that category, what action we are taking and the duration of that action. We will also tell them that there will be a right of appeal to the Council's Chief Executive if they disagree with it.
- 4.3.3 If we decide to carry on treating someone as an unreasonably persistent and/or vexatious complainant and we are still investigating their complaint six months later, we will carry out a review and decide if restrictions will continue.
- 4.3.4 The decision to restrict access to our offices /facilities/ staff will be taken at Director level and will normally follow a prior warning to the complainant. Any restrictions imposed will be appropriate and proportionate.
- 4.3.5 The options we are most likely to consider are:
- Placing time limits on telephone conversations and personal contacts.
 - Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
 - Limiting the complainant to one medium of contact (telephone, letter, email etc.) and/or 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.
 - Refusing to register and process further complaints about the same matter.
 - Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer will be identified who will read future correspondence.

4.3.6 New complaints from people who have come under the unreasonably persistent and/or vexatious complainant policy will be treated on their merits.

4.4 Operating the Policy

4.4.1 The decision to designate someone as an unreasonably persistent and/or vexatious complainant is onerous and could have serious consequences for the individual. Before deciding such a designation, the Council will be satisfied that:

- The complaint is being or has been investigated properly
- Any decision reached on it is the right one
- Communications with the complainant have been adequate; and
- The complainant is now not providing any significant new information that may affect the Council's view on the complaint.

4.4.2 Subject to the above conditions being met, the Council will consider the following actions prior to taking the decision to designate the complainant as unreasonably persistent and/or vexatious or as having behaved in an unacceptable manner:

- If no meeting has taken place between the complainant and an officer(s), and provided that the Council knows nothing about the complainant which would make this inadvisable, the complainant will be offered a meeting with an officer of appropriate seniority. The aim of this meeting will be to dispel misunderstandings and move matters towards a resolution, if possible.
- If more than one department is being contacted by a complainant:
- Set up a meeting to agree a cross departmental approach and
- Designate a key officer to coordinate the Council's response(s)
- If the complainant has special needs, an advocate may be helpful to both parties. The Council will offer help to the complainant in finding an independent person.
- Before applying any restrictions give the complainant a warning that if his or her actions continue the Council may decide to treat him/her as an unreasonably persistent and or vexatious complainant and explain why.

4.4.3 If a decision is taken to apply this policy, a Director will write to inform the complainant that:

- The decision that has been taken,
- What it means for his or her contacts with the Council,
- How long any restrictions will last,
- What a complainant can do to have the decision reviewed, and
- Enclose a copy of the policy with the letter.

4.4.4 The Council will keep adequate records of all contracts with unreasonably persistent and/or vexatious complainants and complainants whose behavior has been deemed unacceptable. These records will include details of:

- The name and address of the complainant;
- When the restriction came into force and ends;
- What the restrictions are;
- When the complainant and the service(s) were advised;

- When a decision is taken not to apply the policy when a member of staff asks for this to be done, or to make an exception to the policy once it has been applied; or
- When a decision is taken not to put further complaint from such a complaint through its complaints procedure for any reason; or
- When a decision is taken not to respond to further correspondence, making sure any further letters, e-mails, etc. from the complainant, are checked to pick up any significant new information.

4.4.5 When a new complaint is received from a person who was previously deemed to have behaved unacceptably or was deemed an unreasonably persistent and/or vexatious complainant, the Council will treat these on their own merits and will decide whether any restrictions which have been applied before are still appropriate and necessary.

4.4.6 Reviews of decisions to restrict a complainant's contacts will be undertaken by the Chief Executive. When reviews are carried out, the Chief Executive will write to advise the complainant of the outcome and, if restrictions are to continue to be applied, when these will next be reviewed.

4.4.7 All restrictions will be subject to review on a six monthly basis. Where complainant, to whom restrictions have been applied, has had no contact with the Council within a six-month period, the restrictions will be removed. The outcome of this review will be recorded. If a restriction has been cancelled, urgent consideration will be given to reintroducing the restrictions if the behaviour which led to the original decision re-commences.

4.5 Roles and Responsibilities

Council Staff

4.5.1 All Council staff should encourage members of the public and service users to provide feedback on Council services and activities. All complaints should be received respectfully and dealt with in accordance with the Council's procedure.

Service Managers

4.5.2 Service managers will be responsible for reporting, to a relevant Head of Service, the potentially unacceptable, unreasonable and/or vexatious behaviour of a customer or complainant and providing the Head of Service with whatever information / reports are necessary to make an informed, consistent and fair decision on whether any restrictions should be applied in relation to a customer/ complainant's access to offices/staff.

Heads of Service

4.5.3 The relevant Head of Service will be responsible for ensuring that an effective investigation of any potentially unacceptable, unreasonable and/or vexatious behaviour of a customer or complainant is undertaken and making recommendations on potential action(s) to the Director for the service.

- 4.5.4 Subject to the nature of a complaint, it may be necessary for a Head of Service to set up a meeting to agree a cross departmental approach and nominate an officer to co-ordinate the Council's response.
- 4.5.5 Where necessary, regular six monthly reviews of any restrictions that are in place, will be undertaken by a nominated Head of Service.

Directors

- 4.5.6 Directors will be responsible for making any decision to restrict a customer / complainant's contact with the Council. The Director will also be responsible for writing to the complainant, advising of the nature of any restrictions, the duration of these restrictions and how they can appeal such a decision.
- 4.5.7 All correspondence with the complainant, in relation to the application of this policy will be the responsibility of the Director.
- 4.5.8 Responsibility for record keeping in relation to the application of this policy will lie with the relevant Director. Where a complainant wishes to have a decision to place restrictions on access reviewed, the Director will forward any relevant information to the Chief Executive.
- 4.5.9 In the event that it is necessary to designate an officer to read future correspondence, an appropriate officer will be nominated by the Director.

Chief Executive (or nominated Director)

- 4.5.10 When requested by a complainant, the Chief Executive (or nominated Director) is responsible for collating the necessary information in order to conduct a fair and informed review of any decision to place restrictions on a complainant's access to offices/staff.
- 4.5.11 When reviews are carried out, the Chief Executive (or nominated Director) will write to advise the complainant of the outcome and, if restrictions are to continue to be applied, when these will next be reviewed.

4.6 General Principles

- 4.6.1 The Council recognises that dealing with the public can cause anxiety, particularly where there is a risk of aggression, verbal abuse and violence. Such hazards should be identified through the risk assessment process and suitable control measures implemented.
- 4.6.2 The Council has a zero tolerance policy towards physical and verbal abuse of staff.
- 4.6.3 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. Similarly, the fact that the complainant is unhappy with the outcome of complaint and seeks to challenge it once, or

more than once, should not necessarily cause him or her to be labelled as unreasonably persistent.

5 Legal & Policy Framework

5.1 Linkage to Corporate Plan

- 5.1.1 Derry City and Strabane District Council's Corporate Plan sets out its mission of delivering **“Improved social, economic and environmental outcomes for everyone”** Fundamental to achieving this mission is the provision of quality services and high levels of customer satisfaction.
- 5.1.2 This policy, along with its associated documents, provide a framework within which customer feedback is captured and used to improve services.
- 5.1.3 Specifically this policy aims to facilitate the effective management of complaints by identifying and restricting the impact of those complainants whose actions / behaviours may hinder the effective and fair handling of complaints.
- 5.1.4 This policy recognizes the need to protect staff from physical and verbal abuse.

6 Impact Assessment

6.1 Screening and Equality Impact Assessment

- 6.1.1 This draft policy has been screened out for equality impact assessment.

6.2 Impact on staff and financial resources

- 6.2.1 This policy is envisaged to have positive impact on staff as it provides a consistent framework for dealing with those customers and complainants who behave in an unacceptable, unreasonable and/or vexatious manner.
- 6.2.2 Given the past relationship between Council and customers and complainants, it is not envisaged that there will be any significant ongoing implementation issues in regard to staff and financial resources. In the short term, however, resources will be required to make staff aware of the new policy and in reviewing existing processes. It is considered that these requirements can be met within existing resources.

6.3 Sustainable development

- 6.3.1 In so far as this policy promotes positive engagement of citizens in the complaints process, there is a positive contribution towards the Sustainable Development Duty.

6.4 Other impacts

- 6.4.1 The adoption of a formal policy will facilitate a more robust and standardised approach to dealing with complaints across the organization.

7 Implementation

Overall responsibility for the implementation of this policy lies with the Chief Executive. Operational implementation will be coordinated by a designated Head of Service

7.1 Support and Advice

Training

- 7.1.1 All employees who deal directly with complainants will be provided with appropriate training.
- 7.1.2 New employees will also be provided with information on this policy as part of their induction process.

7.2 Guidelines and Forms

This policy should be operated in conjunction with the Council's Policy on Feedback and Complaints and the employee guidance on dealing with complaints.

7.3 Communication Strategy

Responsibility for the communication of this policy lies with service managers. Copies of the policy, once approved will be made available on the Council's intranet site. Training will be arranged in conjunction with the Training Officer.

7.4 Health and safety

The implementation of this policy will help protect staff from complainants who behave in a manner which is unacceptable, unreasonable and/or vexatious.

7.5 Risk Management

Failure to comply effectively with this policy may lead to the frustration of the complaints handling process, an ineffective and inefficient use of resources and a negative impact on staff morale/safety.

8 Monitoring, review and evaluation

8.1.1 This policy will subject to review no later than 3 years after approval