



## **Resolving Complaints and Improving Services**

### **Shropshire Council Corporate Complaints and Representations Procedure**

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### **Appendix 1**

Unreasonably Persistent and Vexatious Customer Procedure

## Scope of the Representations and Complaints Procedure

### 1. Defining representations and complaints

- Shropshire Council welcomes feedback from customers because it helps to improve the way we do things and to learn from things that have gone wrong.
- This document sets out our procedure for working with customers who would like to make representations, including complaints, about the actions, decisions or apparent failings of the services we provide. One of the ways in which we acquire comments and opinions in order to influence service planning and delivery is through our customers feedback:

#### ❖ Comments

- If a customer wants to make a comment about anything that the Council does or if they would like to make a suggestion on how we could improve the services that we provide, we will record the details and ensure that the relevant service area is provided with the details.

#### ❖ Compliments

- If customers receive a particularly good service and wish to make a compliment, we will ensure that the person or service is made aware.

#### ❖ Complaints

- A complaint may be generally defined as an expression of dissatisfaction about a council service, whether that service is provided directly by the council, a Contractor or Commissioned service. Complaints can provide valuable learning points which helps to improve service delivery.

Details of how to provide feedback to the council can be found on the link below;

<http://shropshire.gov.uk/customer-service/give-us-some-feedback/>

### 2. Procedure

- This is a procedure for Corporate Complaints only. Complaints relating specifically to Children and Young People's Services and Adult Social Care are covered separately.
- **The procedure is framed to:**
  - Provide a quality and responsive service;

- Acknowledge that all people who receive services have a right to complain if they think that something that should have been done has not been done, or that something has been done badly or incorrectly.

### **3. Key Principles**

- **This Procedure is designed:**
  - To ensure that customers are treated fairly and assist them in making a complaint by being easy and straightforward to use;
  - To be accessible;
  - To ensure complaints will be investigated as quickly and thoroughly as possible, and in a positive, problem-solving manner;
  - To ensure that the outcome and resolution of complaints will be used to monitor the Council's performance and improve service delivery;
  - To reflect the Council's and service areas desire to provide a quality service.

We will endeavour to ensure that customers receive whatever help and guidance they require to aid them in making a complaint or in understanding the procedure. Where appropriate this help will include the provision of interpreters and advocates.

### **4. What may be complained about?**

- **A complaint may arise as a result of many things relating to a service's functions such as:**
  - An unwelcome or disputed decision (if no appeal process applies – see examples in the following section);
  - Concern about the quality or appropriateness of a service;
  - Delay in decision making or provision of services;
  - Delivery or non-delivery of services, including complaints procedures;
  - Quantity, frequency, change or cost of a service;
  - Attitude or behaviour of staff (unless it warrants internal disciplinary action)

### **5. What is exempt from this complaints procedure?**

- **There are occasions when this procedure will not be the appropriate procedure to be used for instance when it is:**
  - A request for a service;
  - A complaint about Adult Social Care Services;
  - A complaint about Children and Young People's Services;
  - A complaint about the conduct of Directors and Corporate Heads of Service; these will be referred directly to the Chief Executive;

- A complaint regarding the conduct of a Councillor; these will be referred directly to the Monitoring Officer;
  - Matters under consideration by the Courts and Tribunals
  - Complaints against schools ([www.education.gov.uk/schoolcomplaints](http://www.education.gov.uk/schoolcomplaints));
  - Whistle blowing – where staff are raising issues these will be dealt with under the whistle blowing procedures;
  - A staff employment issue, where disciplinary and grievance procedures will be used;
  - Not related to the actions or decisions of this local authority, or of anybody acting on our behalf;
  - The same complaint that has already been dealt with by our complaints procedure;
  - The complaint is more than 12 months old and it would not be possible for the council to consider the complaint effectively and fairly, e.g. due to changes in staffing and record retention timescales. (see exceptions section 13);
  - There is a potential or actual insurance claim (see section 6).
- **Or there is an alternative statutory appeal or tribunal processes, including:**
    - An appeal against Court rulings;
    - Appeals against the refusal of planning permission, planning enforcement or licensing decision;
    - A complaint about the issue of a penalty charge notice (except administrative issues);
    - Complaints about ‘registered’ housing providers;
    - School/Academy admission or exclusion appeals;
    - Special Educational Needs (SEN) Tribunals;
    - Housing Benefit appeals;
    - A complaint against the refusal of disabled badges for parking exemption.

A complaint will not be taken where it relates to the decision/outcome of an appeal. However a complaint may be taken relating to the process of how the decision was made.

## **6. Compensation Claims**

- Usually this involves the customer suffering loss or injury arising out of an alleged negligent act by the Council, its employees or agents. Such complaints will be forwarded to the Council’s Insurance Officer and the customer informed.

## **7. A Complaint Regarding External Contractors**

- If the complaint involves services that are provided for the Council by external providers, in the first instance the Council would wish to be notified if there is a problem. However, it is important that the external provider be given the opportunity to investigate and try to resolve the complaint directly with the customer.
- Each external provider has their own complaints procedure in line with their contractual obligation to the council.

## **8. Anonymous Complaints**

- From time to time the council receives anonymous complaints and although these will be passed to the relevant service for information, ordinarily there will be no further action unless the service involved considers it appropriate to do so.

## **9. Relationships to Other Procedures**

- **This procedure may be suspended if any of the following procedures are invoked**
  - Disciplinary and Grievance Procedures
  - Children and Young People's Services Complaints Procedure
  - Adult Social Care Complaints Procedure
  - Harassment Procedures
  - Police Investigation – Criminal
  - Safeguarding Procedure

## **10. Who may complain?**

- The Council will consider representations including complaints made to us by any customer or third party who is contacting us on the customer's behalf. A complaint by a representative will not be considered by the council unless satisfied that the representative is acting with explicit consent of the customer or under a Power of Attorney.
- In the case of a customer who lacks capacity to make a complaint themselves a third party complaint will only be permitted when the Senior Customer Feedback and Complaints Officer, in discussion with the senior manager from the service area, determine that the third party who is not an advocate is acting in the Best Interest of the service user.

## 11. Basic Principles of Complaints

- Concerns or worries are often raised as part of normal everyday interaction between services and their customers. Normally these will be easily resolved by staff working on a day-to-day basis with the customer. However, there may be complaints that cannot be sorted out in that way to the customer's satisfaction.

### Basic Principles:

- Most complaints arise from a genuine feeling of grievance and not of maliciousness;
- Small grievances can become large if not dealt with at the early stages;
- Complaints can serve to highlight genuine deficiencies in service and staffing levels;
- People have the right to complain, to be heard, and to have their complaints looked into as quickly as possible;
- Handling complaints properly is an important part of the way the Authority provides its services;
- Complaints are part of the feedback system as to how services are provided;
- The confidentiality of the customer and those persons mentioned (whether staff or others) should be appropriately protected;
- Even persistent/vexatious customers can have a new valid complaint.

## 12. Values

- **This procedure sets out certain values that the Council regards as central to this process.**
  - That services and information about services should be readily available and easy to understand;
  - That customers are involved as fully as possible in our processes to promote better services;
  - That people have rights, and can ask the service to account for its action or inaction on their behalf;
  - That people have the right to redress when the services provided have not been good enough and when there has been an injustice caused by the Service.

- **These values establish a number of things for our services and for our staff:**
  - That the Council should be trying to provide a quality service that is fit for purpose and resilient. Where this does not happen, for any reason, then the Complaints Procedure offers a means of redress and of improving the quality of the service provided;
  - The rights of individuals to complain are clear. However, the right of staff to equally fair treatment is also explicit. This procedure does not provide a means of placing one person's "rights" above those of another.

### **13. Framework for Managing Complaints**

- Service Areas should be able to deal with the majority of issues that customers raise quickly and informally and will be encouraged to do so. Therefore all complaints received will be directed to the relevant service area in the first instance for them to address directly with the customer, and ensure that appropriate recording on the Council's Complaints system takes place. However, if following this the customer finds that their issues have not been resolved there is the option for the customer to progress their issues as a formal complaint.
- It is important that customers are aware that this procedure applies to formal complaints only. For example, it does not apply to 'service requests' or 'reporting a problem' e.g. request for fly-tipping removal, nor does it apply to a planning application objection or a complaint about Council policy or policies etc, although these may become complaints if, for example, a service request or reporting of a problem is not properly and promptly dealt with in accordance with the applicable service standards.
- ❖ **Complaints about issues or events that occurred more than 12 months prior to the date of the complaint will not normally be considered unless any of the following circumstances apply:**
  - The customers were not aware, until beyond the period of 12 months, of the actions of the Council which now form the subject of the complaint;
  - The customer was incapacitated by ill-health beyond the 12 month period which prevented him/her from making a complaint within the allowed timescales and provides proof of this;
  - It would have been unreasonable for the complaint to have been made earlier than it was made;

Similarly there will be no review of a complaint that was dealt with more than 12 months ago.

## **There are two stages to this procedure as defined below:**

### **14. Stage 1 – Service Investigation**

- If it has not been possible to resolve the complaint informally, the complaint will be recorded formally by the relevant service area on the Council's Complaints system.
- The relevant service area will investigate the complaint and respond to the customer within the timescales set out in this procedure.

### **15. Stage 2 – Monitoring Officer Review /Commissioners Review**

- If the customer is not satisfied with the outcome of the investigation at Stage 1, they may request that the complaint be reviewed providing their reasons for this. The request for a review and any subsequent investigation would be considered by the Commissioner. Where a Commissioner is not in place the request will be considered by the Complaints Manager or their deputy.
  - The customer will be asked to provide details of why they feel that their complaint has not been fully responded to at Stage 1;
  - However, if it is considered that there are no suitable grounds for escalating the complaint to Stage 2 the customer will receive written confirmation detailing the reasons why their request had been declined, together with contact details for the Local Government Ombudsman.
- **The purpose of a Stage 2 Review is to consider if:**
  - The customer's complaint was fully understood and addressed;
  - All of the relevant evidence was taken into account;
  - The Council's policies and procedures were properly followed;
  - The complaints process was carried out properly and fairly;
  - The conclusions were reasonable and fair and reached on the basis of evidence;
  - Any other actions or remedies are appropriate.
- **It is not to:**
  - Reinvestigate the complaint – it will focus on understanding continuing concerns and consider whether the Stage 1 Resolution was undertaken fairly and that the conclusions reached were reasonable;

- Revisit a decision taken by committee or an officer under delegated powers;
- Undermine the professional judgement of officers;
- Review Council policy;
- Deal with any new matters that were not part of the original complaint;
- Cover any points dealt with by a court or where an appeal against a decision lies with a court or other legal process.

## 16. Response Times for Stages 1 and 2

- The Council, in accordance with the LGO guidance on running a complaint system, will focus on our complaints taking **in total** no longer than 12 weeks from receipt to resolution. All complaints will be acknowledged in 5 working days.
- Each stage will have a maximum response timeframe of 6 weeks. If the complaint is complex and the service area is unable to complete a full response by the 6 week deadline the customer will be contacted and a discussion will take place about the reasons for the delay, but to also confirm the new response date.
- Customers choosing to progress from Stage 1 to Stage 2 of the procedure will have 20 working days from the date of the Council's Stage 1 response to make a request for their complaint to progress to the final stage of the complaints procedure. These 20 days will be excluded from the 12 week receipt to resolution timeframe.
- Customers will be notified in writing of the outcome of the Stage 2 review together with contact details for the Local Government Ombudsman, if they remain dissatisfied.

## 17. Local Government Ombudsman

- If a customer is unhappy about the way that the Council has dealt with their complaint they can contact the Local Government Ombudsman who is independent and can investigate complaints about most Council matters. The Ombudsman would normally expect a complaint to be made to them within 12 months of when the complainant first knew of the problem that they are complaining about.
- The Local Government Ombudsman normally requires all complainants to go through all stages of their Council's own Complaints Procedure before considering the complaint. However, in certain circumstances the Ombudsman has the discretion to waive this requirement. This might be

because delay could cause harm to the complainant. The complainant should be advised of the normal requirement to complete the Council's Complaints Procedure but also that they can contact the LGO Advice Team for further advice.

- Full details of how the Local Government Ombudsman deals with complaints can be found on the Ombudsman website [www.lgo.org.uk](http://www.lgo.org.uk)

## **Appendix 1**

### **Unreasonably Persistent and Vexatious Customers Procedure**

#### **1. Introduction**

- The Council is committed to ensuring that it provides a quality and efficient service to every customer. However, there are rare instances where a Customer unnecessarily takes up a large amount of resources. This can lead to a detrimental effect on the ability of the Council to provide a satisfactory level of service to its other customers.
- The procedure below establishes what is considered to be unacceptable levels of contact with the Council and how instances of unreasonably persistent or vexatious contact can, and should, be handled.
- The Procedure must NOT be used to impede the ability of a customer to have reasonable access to services provided. For example, a customer will not be considered for classification under this procedure just for asking difficult questions.
- It is also crucial that this procedure will not be used to prevent the delivery of services to customers classified as unreasonably persistent or vexatious

#### **2. Definitions of unreasonably persistent and vexatious behaviour and customers**

- A customer can be an individual who receives any service from the Council, in any form.
- Unreasonably persistent and vexatious customers are those individuals who, because of the nature or frequency of their contacts with the Council, hinder our ability to effectively deliver services to our customers. Some examples of behaviour and actions taken by these individuals are listed below; however this is not an exhaustive list.

#### **3. Actions and behaviours of unreasonably persistent and vexatious customers**

- These are some of the actions and behaviours which teams or officers often find problematic. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is

time consuming to manage and interferes with proper handling of the issues raised and may also affect delivery of services to our customers.

**These behaviours can be:**

- Refusing to specify the grounds of the service request, despite offers of assistance;
- Refusing to co-operate with the process for handling service requests;
- Refusing to accept that certain issues are not within the scope of a particular team or the Council;
- Insisting on the request being dealt with in ways which are incompatible with adopted procedure(s) or with good practice;
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced;
- Changing the basis of the service request as the issue proceeds;
- Denying or changing statements made at an earlier stage;
- Introducing trivial or irrelevant new information at a later stage;
- Raising numerous, detailed but unimportant questions and insisting they are all answered;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Adopting a 'scatter gun' approach: inappropriately pursuing parallel service requests on the same issue with a variety of organisations or with a variety of teams within the Council;
- Making excessive demands on the time and resources of staff with lengthy phone calls e-mails to numerous council staff or detailed letters every few days, and expecting immediate responses;
- Submitting repeat requests with minor additions/variations that the service user insists make these 'new' issues;
- Refusing to accept the decision or outcome; repeatedly arguing points with no new evidence;
- Making numerous, repetitious and unreasonable contact because an individual is unable or unwilling to accept or agree with a policy decision or approach which has been adopted by the Council or individual services and functions;
- Adopting a violent, aggressive or threatening demeanour towards staff.

#### **4. Operating the procedure**

- Any of the above behaviours will trigger the beginning of this process.
- Prior to making a customer vexatious or unreasonably persistent it is crucial that the service area have fully applied the Councils complaints procedure or have evidence of the number of contacts made and responses provided, and it is clear that customers behaviour or actions fall under section 3.
- The Service Manager or Head of the Service Area affected will be responsible for making the decision that a customer is considered vexatious or unreasonably persistent.
- Once the decision has been made a warning letter will be sent to the customer advising them that their issues have been fully addressed and any future contact on the same issue will be dealt with under the unreasonably persistent and vexatious policy.
- Any new complaints will be considered on their own merits. However, if new complaints relate to same or similar issues previously addressed, it may be appropriate to not investigate these issues further under the relevant complaints procedure. This should only be done with the agreement of the appropriate Service Director/Commissioner. The customer should be told this, and there is no need to provide any right of appeal other than to the Local Government Ombudsman. Subsequent complaints should then simply be noted.

#### **5. Restricting Contact**

- Any restrictions will be agreed by the relevant Service Director/Commissioner and will be appropriate and proportionate to the nature of the customer's contacts with the Council at that time. The following is a summary of the types of restriction which may be used:
  - 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 customer to one medium of contact (telephone, letter, etc);
  - Requiring the customer to communicate only with a named employee;
  - Requiring any personal contacts to take place in the presence of a witness;
  - Closing the investigation into a complaint;

- Refusing to register and process further complaints providing the customer with acknowledgements only of further letters, faxes, or e-mails received after a particular point;
- Banning a customer from some or all of the Council's premises;
- Involving the police in cases where we believe the customer has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened, or where the customer refuses repeated requests to leave council premises;
- If more than one service is being contacted by an unreasonably persistent complainant, the Council will consider a strategy meeting to agree a cross-service approach; and, where appropriate, designating one officer to coordinate future Council responses to the complainant.

## **6. Withdrawing restriction**

- Once an individual has been classified as a vexatious or unreasonably persistent complainant, there is a review process for withdrawing this status if, for example, a more reasonable approach is subsequently demonstrated by the customer.

## **7. Notification of Unreasonably Persistent/Vexatious Decision**

- Once the decision has been made a notification letter will be sent from the Director/Commissioner of the Service Area to the customer outlining who in the Council will be informed of the restrictions and detailing below reasons/actions;
  - Why the decision has been taken;
  - How the customers behaviour needs to change;
  - What action will be taken;
  - The duration of that action;
  - Officer/Service area aware of the restrictions;
  - The date of review for the action, if required;
  - The right of the customer to contact the Local Government Ombudsman about the application of this procedure.

## **8. The services areas to be informed of instances where this procedure is invoked are;**

- The Complaints Team, who keep records of all instances of classification of unreasonably persistent or vexatious customers, (Vexatious Register);
  - The relevant Service Manager/Service Area, to inform them of the appropriate steps to take should customer contact occur;
  - The relevant Councillor and/or Portfolio Holder (where topically or geographically appropriate).
- 
- In extreme or rapidly escalating cases, it may be necessary to immediately impose restrictions to ensure the safety of staff members. This is a decision which will be taken by the Service Director/Commissioner.
  - Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Council's staff, other options will be considered; for example reporting the matter to the Police or taking legal action. This is covered in the Health and Safety Policy.
  - In instances involving formal procedures (i.e. Penalty Charge Notices or Freedom of Information requests) where a customer whose enquiry has been closed or responded to persist in communicating with the Council about the issue, the Council may decide to terminate contact with the individual. In such cases all correspondence relating to the enquiry will be reviewed, but unless there is fresh evidence which affects the outcome of the enquiry then any communication may be logged only, and not responded to.
  - New service requests that come from individuals who have been classified as unreasonably persistent or vexatious will be treated on their own merit.

### **Right of Appeal:**

If the customer feels that the decision for restricted contact to the council as a vexatious or unreasonably persistent customer is unfair or incorrect they have the right of appeal by writing to the Complaints Monitoring Officer outlining their reasons.

The decision will be reviewed by the Complaints Monitoring Officer and the outcome of that appeal will be final. The next review will take place on the anniversary six month's following the implementation of the restriction.

### **Review Process**

- A review will be conducted at the end of the restricted period by the Service Manager or Head of Service who was responsible for the original decision.

- He / She will review all contacts received from the customer during the restricted period and will consider if all or any of this contact relates to the reason that the unreasonably persistent/vexatious policy was invoked.
- The Service Manager or Head of Service will then write to the customer with the outcome of their review. If the decision is that the restriction is to continue, the reasons and timeframe will be detailed in the review letter.

## **9. Monitoring**

- Reports will be provided to Senior Management highlighting key information about instances where this procedure has been invoked, including:
  - How many times the procedure has been invoked;
  - How many times a decision has been taken not to classify a customer as unreasonably persistent or vexatious;
  - Number of reviews;
  - Numbers on the register and name only;
  - Why customers on the register (i.e. themes);
  - Learning from the instances above.

## **10. Procedure Review**

- This procedure will be reviewed as necessary.

