

Policy and procedure for persistent and vexatious complainants

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1. Introduction

- 1.1 A very small minority of customers make or pursue complaints in a persistent or vexatious way which can either slow down the investigation of their complaint or can have significant resource issues for us. This policy is to ensure unreasonable and unreasonably persistent complainants are dealt with fairly. It sets out clearly for staff and complainants what is expected of them, what they can do, and who can authorise actions. It will help us assess and monitor how we deal with and respond to unreasonable and unreasonably persistent complainants.
- 1.2 In considering when to use this policy it is critical that we firstly consider and ensure we understand a customer's circumstance, how and why they feel as they do and what it is that would resolve the matter for them. We must be sure that we have given them the right opportunity to express their views and opinions and that we have listened and given appropriate thought and effort to resolving and explaining the position and our actions.
- 1.3 If a customer's behaviour adversely affects the Council's ability to do its work and provide services to others, such behaviour may need to be addressed by restricting contact with the Council.
- 1.4 The final decision to restrict a customer's access to our offices and officers can only be taken by the complaint resolution team in consultation with service directors. Before deciding whether the policy should be applied the service director and the complaint resolution team should be satisfied that:
 - the complaint is being or has been investigated properly;
 - any decision reached has been reviewed and is found to be appropriate;
 - communications with the complainant have been adequate; and
 - the complainant is not now providing any significant new information that might affect our view on the complaint.

2. Persistent and vexatious complaint policy

- 2.1 A vexatious complainant is someone who contentiously raises a complaint, **without grounds**, in order to cause annoyance or disruption.

2.2 A persistent complainant is someone who contacts the Council and raises the same complaint or similar complaints many times. Many times is defined as **more than three separate occasions**. This could be regardless of whether the complaint has been dealt with.

2.3 Examples of persistent and vexatious behaviour are as follows:

- Persistently approaching the Council through different routes about the same issue;
- Persistently seeking an outcome which we have already explained is unrealistic for policy, legal or other valid reasons;
- Complaining about or challenging an issue based on a historic and/or irreversible decision or incident;
- Making an unreasonable number of contacts with the Council, by any means, in relation to a specific complaint or complaints;
- Making persistent and unreasonable demands or expectations of council staff and/or the complaint 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);
- Adopting an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Council but at the same time with a Member of Parliament, other councils, elected members of this and other councils, the council's independent auditor, the Standards Committee, the police, solicitors and the Local Government Ombudsman (LGO);
- Refusing to specify the grounds of a complaint despite offers of assistance;
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
- Refusing to accept that issues are not within the remit of the corporate complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (eg parking tickets and planning appeals);
- Refusing 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);
- Insisting on the complaint being dealt with in ways which are incompatible with the corporate complaints policy and procedure or with good practice (e.g. insisting that there must not be any written record of the complaint);
- Refusing 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;
- Making the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and insisting that the minor differences makes these 'new'

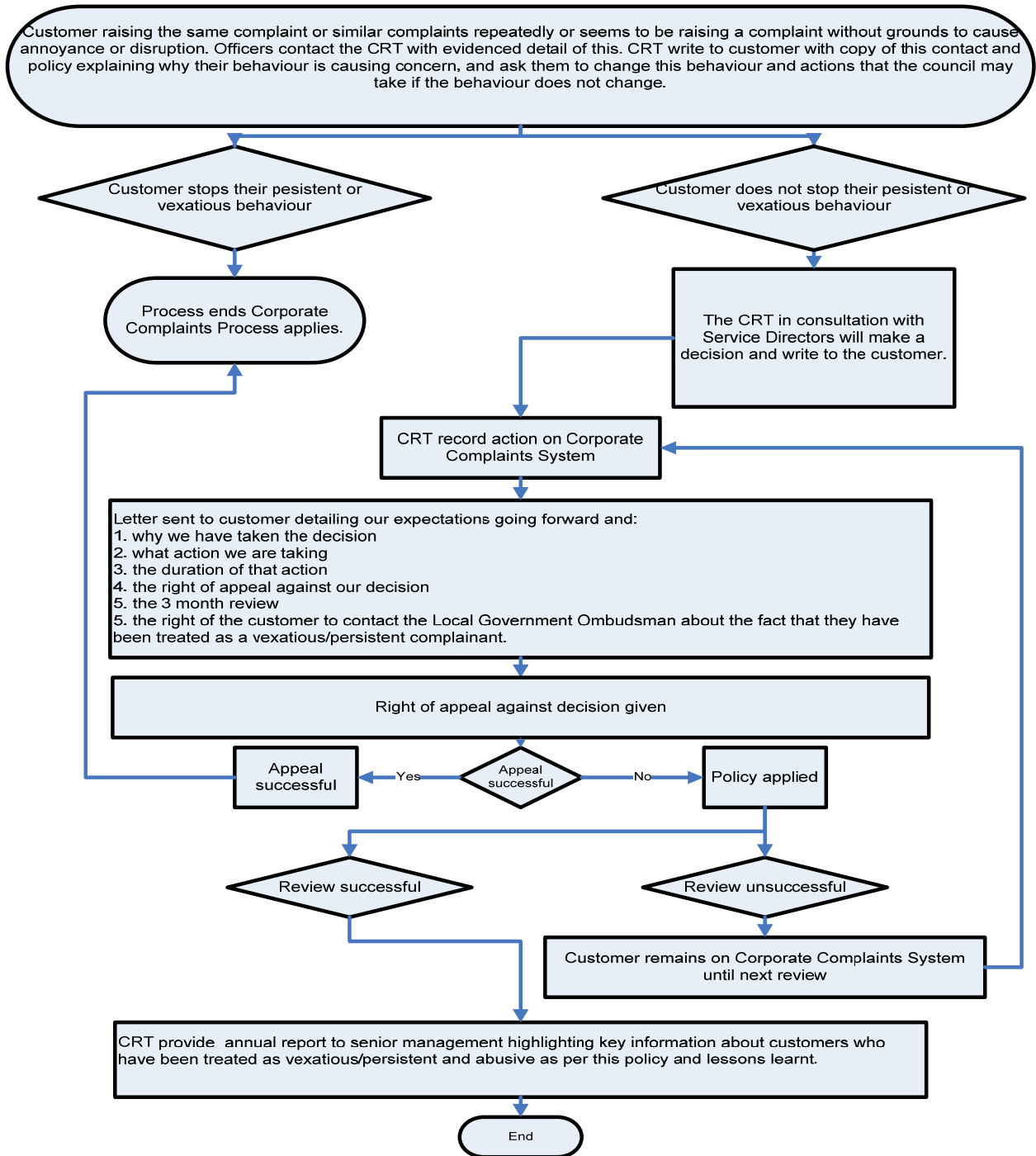
- complaints which should be put through the full corporate complaints procedure; and
 - Combinations of some or all of the above features.
- 2.4 Some individuals that staff may consider to be vexatious or persistent complainants may be behaving as such because of a specific circumstance or difficulty such as mental health problem. Where this is indicated any concerns that staff may have about a customer's vulnerability must be raised immediately with the Head of Service in line with any policies relating to this. If the complainant has special needs, an advocate might be helpful to both parties.
- 2.5 Based on the circumstances and behaviour of the customer and their complaint, restrictive actions will be tailored accordingly.
- 2.6 Actions that could be taken to restrict access and contact:
- Requesting contact in a particular form only (e.g. letters only);
 - Placing restrictions on telephone calls to specific times and days of the week;
 - Requesting that the customer enters into a contact agreement for their future contact with the Council;
 - Placing restrictions on the amount of time officers will spend investigating their complaints;
 - Where relationships have broken down, requesting that the customer uses an appropriate advocate to act and contact the Council on their behalf;
 - Banning the complainant from sending emails to some or all council officers and insisting they only correspond by letter or a designated email contact;
 - Banning the complainant from using any of the council's services such as libraries or sport centres;
 - Banning the complainant from visiting any council building except by appointment;
 - Requiring contact to take place with one named member of staff only;
 - Restricting telephone calls to specified days/times/duration (this may also include installing Witness, call recording software used in the call centre, to record conversations, with the customer being made aware of this);
 - Requiring any face to face contact to take place in the presence of an appropriate witness; and
 - Letting the complainant know that the council will not reply to or acknowledge any further contact from them on the specific topic of that complaint.
- 2.7 In some circumstances, the Council may decide that it is appropriate to severely reduce or completely stop responding to a particular customer.

- 2.8 The decision to restrict or stop a customer's access to the council's offices and officers can only be taken by the complaint resolution team in consultation with service directors.
- 2.9 The manager or complaint officer of the service area affected will contact the complaint resolution team to discuss why the complainant's behaviour is causing a concern, giving clear documented evidence to support this and outlining how the behaviour needs to change.
- 2.10 The complaint resolution team will send a letter to the customer, outlining the discussion which has taken place with the service manager (section 2.9) along with a copy of this policy and procedure. The letter will clearly explain to the customer the actions that the Council may take if their behaviour does not change.
- 2.11 If the behaviour continues, the complaint resolution team, in consultation with the relevant service director, will make a decision as to the action to take. A letter will then be sent to a customer outlining this decision. All letters will include:
- Why we have taken the decision we have;
 - What specific action we are taking;
 - The duration of that action;
 - The date of the three month review;
 - The customer's right to appeal against the decision to apply this policy; and
 - The right of the customer to contact the Local Government Ombudsman (LGO) about the fact that they have been treated as a vexatious/persistent complainant.
- 2.12 The decision made and letters sent will be logged on the Council's complaint system.
- 2.13 All customers have the right of appeal. All appeals will be heard by the director of customer services and head of customer strategy and development.
- 2.14 All decisions will be reviewed after three months. A letter will be sent to a customer after the review, outlining the decisions from the review.
- 2.15 The complaint resolution team will keep a record of all customers who have had this policy applied to them. Decisions taken under this policy are subject to the Data Protection Act principles and the Human Rights Act.
- 2.16 Where there are instances where the relationship between the Council and a customer who has been subject to this policy has broken down significantly, the matter can be referred to the LGO for them to consider before our own complaints procedures have been exhausted. Contact

details for the LGO are given in the final section of this policy (page seven).

- 2.17 The complaint resolution team will provide an annual report to senior management highlighting key information about customers who have been classed as vexatious/persistent as per this policy. This report will also include any lessons learned.

3. Persistent and vexatious complaint procedure



4. Link with other policies and procedures

4.1 Equality and cohesion policy statement

4.1.1 The Council is committed to eliminating discrimination in service delivery, procurement and employment on the grounds of race, gender, disability, sexual orientation, age, religion and belief.

4.1.2 The Council will monitor its activity to make sure this happens and take decisive action against those found to be in breach of the equality and cohesion policy.

4.1.3 The aim of the three monthly reviews, outlined in the persistent/vexatious complaint procedure aims to ensure that customers are not unfairly discriminated against.

4.2 Red Files

4.2.1 The Council's Red File Scheme and Procedure records and monitors details of known abusive, violent or harassing members of the public.

4.2.2 There may be times when there is an overlap between a customer being classified persistent/vexatious and a 'Red File'. Where this is the case, the complaint resolution team will highlight this with the relevant service manager, giving clear recommendations as to how to deal with the situation.

4.3 Harassment and bullying

Persistent and vexatious complainant behaviour may amount to bullying or harassment. All Council workers have the right to be treated with respect and dignity in the workplace. Behaviour by third parties that bullies, harasses or intimidates Council workers is unacceptable and will not be tolerated. The Council will take all reasonable steps to prevent such behaviour. Workers will be protected from victimisation after raising genuine complaints, whatever the outcome.

5. Contact information

5.1 For more help or information, customers and staff can contact the complaint resolution team.

Email: complaints@croydon.gov.uk

Telephone: 020 8726 6000 (ext.47015)

5.2 Contact details for the LGO are as follows:

Website: www.lgo.org.uk

Address:

Local Government Ombudsman
PO Box 4771
Coventry
CV4 0EH

Telephone: 0845 602 1983