

Adult Social Care Statutory Complaints Vexatious Complainants



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1. Relevant Policies

- 1.1 This guidance should be read in conjunction with Solihull Council's:
- Adult Social Care Statutory Complaints Policy
 - ASC Statutory Complaints and Representations Procedure
 - Protocol for Handling Multi-Agency Formal Complaints
 - ASC Statutory Complaints Guidance for Investigating Managers
 - ASC Statutory Complaints Guidance for Provider Investigating Managers

2. Introduction

- 2.1 The majority of people who raise a complaint do so because they have a genuine concern and wish to seek answers or a resolution to the complaint. However, there are a small number of people who, because of the manner in which they present their complaints or the frequency of their contact with the Council, hinder the consideration of their complaint and take up an unwarranted amount of Council resources.
- 2.2 These actions can occur either while their complaint is being investigated or once the investigation has been completed. The aim of this guidance is to identify situations where the complainant or their behaviour could be considered as unreasonable and to detail how to respond to such situations.
- 2.3 Because a complainant (or their representative) has been labelled as "vexatious" does not mean that they are unable to raise legitimate complaints and these should be investigated and responded to under the relevant complaint procedure.

3. Definition of Unreasonable Complaint Behaviour

- 3.1 Examples of unreasonable and persistent behaviour include:
- Being abusive, threatening or acting in a manner intended to intimidate staff. This includes any use of racist, sexist, homophobic or other discriminatory language.
 - Putting, or threatening to put information on social media or websites which includes personal information of an organisation's employees without their consent and/or making defamatory statements about employees online.
 - Making 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 expecting immediate responses.
 - Submitting repeat contacts or complaints with minor additions/variations which the complainant insists make these 'new' complaints.
 - Refusing to specify the grounds of a complaint, despite offers of help.
 - Refusing to cooperate with the complaint investigation process. For example, failing to provide information requested that is important for the investigation.
 - Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
 - Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
 - Frequently changing the basis of the complaint as the investigation proceeds.
 - Raising many detailed but unimportant questions, and insisting they are all answered.

- Providing false information and / or submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints or contact about the same issue with various organisations.

3.2 A small number of people will misuse technology and act in a way that is unreasonable. This may include:

- Recording interactions with an organisation without good reason.
- Putting recordings online without the consent of those being recorded.
- Live broadcasting interactions with an organisation without their consent.
- Manipulating or editing recordings.

3.3 This list is not exhaustive and unreasonable behaviour is not limited to one or a combination of the above.

4. Assessing Whether the Action is Proportionate and Necessary

4.1 The decision to designate someone as vexatious can only be made by the Customer Relations Manager in conjunction with the relevant Head of Service and Assistant Director.

4.2 Consideration of the following points, together with any relevant factual information, will be necessary to assess whether the proposed action is proportionate and necessary:

- Is the complaint being investigated correctly and in line with the relevant Complaints Process
- Is there another, more specific path for the complainant to follow i.e. an appeal process
- Are timescales being adhered to and have these been clearly conveyed to the complainant
- Has the complainant been advised of any delays that may occur
- Have the decisions made as part of the investigation been made correctly
- Has communication with the complainant been clear, adequate and co-ordinated
- Has consideration been given to the possibility of mental health issues, learning disabilities or personality disorders or any other relevant factors
- Is the complainant now providing significantly new information that may affect the Council's view of their complaint

4.3 If more than one service area or department is being contacted by the complainant, consideration should be given to holding a strategy meeting to discuss a cross-service approach. It may also be necessary to appoint a designated key Officer to co-ordinate responses to the complainant.

4.4 Raising legitimate queries or criticism of the complaints procedure, for example if agreed timescales are not met, should not in itself lead to someone being labelled as vexatious. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it should not necessarily cause them to be labelled as unreasonable or unreasonably persistent.

5. Applying Restrictions

- 5.1 **Before applying restrictions**, a complainant should be advised in writing that their behaviour is unacceptable and if their actions continue, the Council may decide to treat the complainant as vexatious. This should include clear reasons why the behaviour is unacceptable and, if possible, the timeframe before sanctions will be introduced. This information will be provided by the relevant Head of Service or Assistant Director, with advice from the Customer Relations Manager.
- 5.2 Should the decision be taken to apply restrictions, then this will be conveyed to the complainant in writing and should include:
- Why the restrictions have been put into place
 - How the complainant should make contact with the Council
 - How long the restrictions will last
 - When the decision to place restrictions will be reviewed
 - How the decision to place restrictions can be appealed
- 5.3 Where restrictions are applied, confirmation of the restrictions should be circulated to the relevant service area and departments that may be contacted by the complainant. This should include clear details of the restrictions that have been put into place and the date by which the restrictions will be reviewed.

6. Options for Action

- 6.1 The action the Council decides to take should be proportionate and appropriate to the nature and frequency of the complainant's contacts with the Council.
- 6.2 The following is a list of possible options for managing a complainant's contact with the Council:
- Placing time limits on the length of telephone conversations and personal contacts
 - Restricting the number of telephone calls that will be taken i.e. one call on one specified day of the week
 - Limiting the complainant to one contact medium i.e. email, telephone, letter
 - Requiring the complainant to correspond with a designated member of staff and confirming contact to other members of staff will not be responded to
 - Requiring all personal contact to take place in the presence of a witness
 - Refusing to register / process further complaints about the same matter

This list is not exhaustive and other proportional action may be taken.

7. Completed Complaints

- 7.1 Where a complaint has completed the complaints process and the complainant remains dissatisfied, they are entitled to take their complaint to the Local Government & Social Care Ombudsman.
- 7.2 Should correspondence from the complainant continue once the complaints process has been exhausted and it has been determined that Adult Social Care have done all they can do to resolve any further related issues, then the Customer Relations Manager will write to the complainant to inform them that the matter is at

an end and the Council will not enter into further correspondence about the complaint. Any further correspondence will be placed on file but will not be acknowledged or responded to.

8. Dealing with Unreasonable Complainants

- 8.1 Staff are not expected to tolerate language or behaviour by complainants that is abusive, offensive or threatening. Members of staff who feel threatened by the language or behaviour of a complainant should report their concerns to their Line Manager.
- 8.2 Consideration should be given to writing to the complainant, requiring them not to repeat their behaviour and if necessary, setting conditions and restrictions for further contact with staff. Consideration should also be given to reporting the incident to the Police.
- 8.3 During a telephone conversation, if staff consider that the complainant is becoming aggressive and/or offensive, **then they will inform the caller that the call will be terminated if the behaviour continues**. If the behaviour persists and the call is terminated, then a note will be placed on the file, explaining why the call was terminated. Repeat calls of this nature are considered unacceptable and staff should report these to their Line Manager.

9. Records

- 9.1 Adequate records must be kept of all contacts with vexatious complainants. This information should be treated as confidential and should only be shared with those who may be affected by the decision.
- 9.2 Key information includes:
 - Frequency and nature of contact from the complainant
 - The reason for the decision to apply, or not apply, restrictions to the complainant
 - When a decision is made not to respond to any further correspondence from the complainant, having ensured that no further significant information is included in their correspondence.

10. Future Complaints by a Vexatious Complainant

- 10.1 Because restrictions have been placed on a complainant, **this does not mean that they are unable to raise legitimate complaints** and have them investigated under the relevant complaints process. Any new issues should be treated on their own merit and a decision made as to the validity of the complaint. A decision will need to be taken about whether restrictions that have been applied before are still relevant.
- 10.2 The Local Government & Social Care Ombudsman is unlikely to be critical of the Council's action if it can be shown that the Council's procedure has been operated correctly and fairly.