

VEXATIOUS COMPLAINANTS POLICY

Introduction

1.1 East Herts District Council aims to provide good quality services on every occasion but sometimes things can go wrong. The purpose of our complaints procedure is to find out what went wrong and try to put things right for the future. As part of this service the Council does not normally limit the contact that customers have with its staff.

1.2 This policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be 'unreasonably persistent or vexatious' and proportionate ways of responding to these situations.

1.3 Unreasonably persistent and/or vexatious complainants can be a problem for Council staff and members. The difficulty in handling such complainants can place a strain on time and resources. Whilst the Council endeavours to respond with patience and sympathy to the needs of all complainants, there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

1.4 In this policy the term unreasonably persistent complainants refers to complainants who, because of the nature or frequency of their contact with the Council, hinder the Council's consideration of their or other people's complaints. The term vexatious is recognised in law and means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. These terms are used in this policy to clarify that we are attempting to deal with persons who seek to be disruptive to the Council through pursuing unreasonable complaint behaviour.

1.5 The Council will consider each request made under the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations 2004 (EIR) on its own merits and make a decision whether they are obliged to comply or if the request is deemed to be vexatious; repeated or a manifestly unreasonable request and refused under the relevant exemption. All requests for an internal review will be dealt with under the Council's FOI/EIR Internal Review Procedure. If the requestor remains dissatisfied, they have the right to lodge a complaint with the Information Commissioner's Office (ICO). Data Protection Act (DPA) complaints will be dealt with as soon as possible and similarly the complainant can contact the ICO if they remain dissatisfied with the response.

1.6 This policy does not prevent an individual who is categorised as unreasonably persistent or vexatious under this policy from raising a legitimate request for service

e.g. about bin collections, as outlined in the Council's complaint procedure. This will be considered and logged and where appropriate dealt with as a request to do something about the matter.

2. Scope of Policy

2.1 This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints under the Council's Complaints Procedure. Judgement, discretion and proportionality must be used in applying the criteria to identify potential unreasonably persistent or vexatious complainants and in deciding on the appropriate action to be taken in specific cases.

2.2 When considering the application of this policy, Council staff must consider whether the Council's Complaints Procedure has been fully and properly implemented and that all material elements of the complaint(s) have been addressed and identify at what stage the complainant has become unreasonably persistent or vexatious.

2.2 The policy should only be invoked following careful consideration of all the issues by the relevant Service Head and after authorisation has been provided by the relevant Corporate Director ("the Authorising Officer") and any Local Ward Member(s). If the complaint is principally or to a reasonable degree against the relevant Corporate Director then the Authorising Officer will be such other suitable Corporate Director as may be available.

2.3 Where the Authorising Officer and the Local Ward Member are not in agreement over the appropriate course of action, the matter may be referred to the Chief Executive, in consultation with the Chairman or Vice-Chairman of the Council, for a final decision.

3. Definition of an unreasonably persistent or vexatious complainant

3.1 Each case will be viewed individually and decided on its merits. A complainant (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent or vexatious if previous or current contact with them shows that they meet any of the following criteria, dependent upon degree.

3.2 Where complainants: -

- a) Persist in pursuing a complaint where the Council's Complaints Procedure has been fully and properly implemented and exhausted (e.g. where several responses have been provided).
- b) Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon

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receipt of a response. Care must be taken not to discard new issues which are significantly different from the original complaints. These might need to be addressed as separate complaints.

- c) Are unwilling to accept documented evidence of action.
- d) Are unwilling to accept that the Council has reached a final decision on a chosen course of action.
- e) Deny receiving an adequate response in spite of correspondence specifically answering their questions.
- f) Persist in pursuing a matter when they have already exhausted other statutory routes of appeal.
- g) Do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help them specify their concerns.
- h) Continue to seek to pursue a complaint where the concerns identified are not within the remit of the Council to investigate.
- i) Focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a 'trivial' matter can be subjective and careful judgements must be used in applying this criteria.
- j) Have in the course of addressing a complaint, had an excessive number of contacts with the Council placing unreasonable demands on staff time and resources. A contact may be in person or by telephone, letter, e-mail or fax. Discretion must be used in determining the precise number and length of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case.
- k) Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- l) Covertly recording meetings and conversations.
- m) Submitting falsified documents from themselves or others.

- n) Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of organisations.

4. Strategy for dealing with unreasonably persistent or vexatious complainants

4.1 Where complainants have been identified as unreasonably persistent or vexatious under the scope of this policy, taking account of the above criteria, the Authorising Officer, in consultation with any Local Ward Members, will determine what action to take. That person will implement such action and will notify complainants, in writing, of the reasons why they have been classified as unreasonably persistent or vexatious and what action will be taken. They will also be notified of the review procedure under section 5 below.

4.2 This notification may be copied for the information of others already involved in the complaint or matters closely related to it, e.g. Head of Service, Members, staff. A record must be kept, including on the intranet Complaints database (available under Departments, then Complaints Admin), for future reference of the reasons why a complainant has been classified as unreasonably persistent or vexatious.

4.3 The Authorising Officer may decide to deal with complainants in one or more of the following ways.

- a) Withdraw contact with the complainant either in person, by telephone, by e-mail, by fax, by letter or any combination of these, provided that at least one form of contact is maintained. If staff are to withdraw from a telephone conversation with a complainant there will be an agreed statement available for them to use at such times.
- b) Placing limits on the number and duration of contacts with staff per week or month.
- c) Offering a restricted time slot for necessary calls.
- d) To restrict contact to liaison through a designated officer.
- e) Requiring any personal contacts to take place in the presence of a witness and in a suitable location.
- f) Notify the complainant in writing that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The

complainant should be notified that any written form of contact (email or letter), in relation to their complaint or any further complaints relative to the same period of time or the same or similar issues as an earlier complaint is at an end, and that further contact received will be read and placed on file but not acknowledged, unless it contains material new information.

- g) In extreme circumstances inform the complainant that the Council reserves the right to pass unreasonably persistent or vexatious complaints to the Council's legal section and may result in legal action against the complainant.

5. Review decisions and withdrawing 'unreasonably persistent or vexatious' status

5.1 Once a complainant has been determined as being an unreasonably persistent or vexatious complainant, such status must be reviewed and, where appropriate, withdrawn at a later date. Such action may be appropriate where a complainant subsequently demonstrates a more reasonable approach or submits a further complaint for which the normal complaints procedures would appear appropriate.

5.2 Complainants also have an opportunity to apply to have their unreasonably persistent or vexatious status withdrawn. The review process will be outlined in the notice.

5.3 The Authorising Officer, in consultation with any Local Ward Member(s), will review their decisions to categorise a complainant as unreasonably persistent or vexatious initially after six months. In addition, they will review that decision on receipt of a request to do so from the person so categorised, provided such a request has not been received in the preceding six months or period of time as notified.

5.4 If the person categorised as unreasonably persistent or vexatious is not satisfied with the decision reached by the Authorising Officer he may request that the decision is reviewed by the Chief Executive. Such a request for a review may only be received once in any six month period or longer as notified in the review letter. Upon receipt of such a request, the Chief Executive will review the decision, in consultation with the Chairman or Vice-Chairman of the Council. Notice of that decision will be given, as far as is practical, within two weeks of receipt of the request.

5.5 The Authorising Officer or the Chief Executive on review may either withdraw the categorisation of a person as unreasonably persistent or vexatious if a more reasonable approach is being used by the complainant or amend the strategy being applied to that person. This may include extending the date of the review to 12 months if no improvement is identified and or the introduction of additional restriction(s). The review

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date may be extended further to 18 months if the review identifies a marked increase in nature and or frequency of their contact with the Council,

5.6 If the Authorising Officer or the Chief Executive considers it appropriate to withdraw the status of unreasonably persistent or vexatious complainant, normal contact with the complainant and application of the Council's complaints procedure will be resumed. Notice of that decision will be supplied to the person or persons forthwith.

5.7 Copies of all decisions by the Authorising Officer or the Chief Executive relating to the categorisation of a person as an unreasonably persistent or vexatious complainant will be sent to the Information Governance Officer who will hold and maintain a central register of such decisions.

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