



**RHONDDA CYNON TAF COUNTY BOROUGH COUNCIL**

**MUNICIPAL YEAR 2018 - 2019**

**STANDARDS COMMITTEE**

**22 MARCH 2019**

**UNREASONABLY PERSISTENT CUSTOMER POLICY – UPDATE AND ANNUAL  
REVIEW 2018 - 2019**

**REPORT OF THE MONITORING OFFICER**

**1. PURPOSE OF REPORT**

- 1.1 To update the Standards Committee with a summary of decisions made and action taken in respect of customers identified as unreasonably persistent in accordance with the Council's Unreasonably Persistent Customer policy during the period 1<sup>st</sup> March 2018 – 21<sup>st</sup> March 2019.

**2. RECOMMENDATIONS**

It is recommended that the Committee:

- 2.1 Notes that the Director of Legal and Democratic Services acts as the central point of referral for Unreasonably Persistent Customers and maintains a repository of all Unreasonably Persistent Customer cases; and
- 2.2 Reviews the use of the Unreasonably Persistent Customer policy by the Council during the period 1<sup>st</sup> March 2018 – 21<sup>st</sup> March 2019 as detailed in Appendix 3 to the report.

**3. BACKGROUND**

- 3.1 In December 2011 the Standards Committee approved the Unreasonably Persistent Customer policy. This formalised a procedure to enable officers across the Council to clearly and consistently identify and deal with customers who pursue their cases in a way which:

- impedes the investigation process of their complaint; and/or
- disrupts normal service delivery by displaying unreasonable behaviour in pursuing their concerns, taking up a disproportionate amount of time and resources.

3.2 In May 2013 the Standards Committee agreed revisions to the policy which continued the original approach in respect of unreasonably persistent customers and enhanced it further by:

- extending the policy to include elected Members who experience unreasonably persistent customer behaviour;
- clarifying the process for staff to follow should they experience unreasonably persistent behaviour in terms of threats to their health and safety/potential criminal action;
- identifying the procedure to be adopted in relation to customers who make electronic recordings of verbal communication, in face to face meetings, or by telephone;
- simplifying the customer appeal process, reducing it from three stages to two; and
- identifying a Protocol for elected Members to deal with anonymous electronic correspondence.

3.3 The Unreasonably Persistent Customer policy is appended as Appendix 1 to the report.

3.4 Decisions to apply the policy and implement restricted contact arrangements with customers have to be made on a service by service basis in relation to each individual's behaviour and particular circumstances.

3.5 The relationship between the Council's Customer Feedback (Complaints, Compliments and Comments) Procedure and the limited number of individuals who would be considered under the Unreasonably Persistent Customer policy is beneficial for Senior Managers and Service Co-ordinators to identify supportive evidence for the referral process and action, as identified in the policy.

3.6 Alongside the Unreasonably Persistent Customer policy a protocol was devised for elected Members to enable them to effectively deal with anonymous electronic correspondence which may be intimidating or threatening in tone. The protocol provides Members with a clear referral process to follow and ensures that an excessive amount of time is not spent dealing with anonymous email to the disadvantage of Members' constituency casework or Council business. This protocol is appended as Appendix 2 to the report.

3.7 The Director of Legal and Democratic Services acts as the central point of referral for Unreasonably Persistent Customers and maintains a repository of all Unreasonably Persistent Customer cases.

3.8 In accordance with the policy the Monitoring Officer will present an annual report to the Standards Committee summarising all decisions made and action taken in respect of unreasonably persistent customers during the relevant period and the Committee will review each case in order ensure that the Policy has been appropriately administered and adhered to.

- 3.8 Appendix 3 of the report details the use of the Unreasonably Persistent Customer policy by the Council during the period 1<sup>st</sup> March 2018 – 21<sup>st</sup> March 2019. The Unreasonably Persistent Customer policy has been applied in 4 cases across the Council during this period.
- 3.9 Members are requested to consider the use of the Unreasonably Persistent Customer policy by the Council during the above period and provide any comments they may have in relation to it.
- 3.10 It is important to note that officers explore all ways to resolve a complaint or issue a customer may have before having to resort to using the Unreasonably Persistent Customer policy in instances where officers considered its use is justified. It is the view of officers that the policy has worked very well in dealing with unreasonably persistent customers and in the overwhelming majority of cases since 2013 the behaviour of those unreasonably persistent customers, when issued with a Stage 1 Warning Letter under the policy has improved and/or changed. Indeed it is also the case that by officers simply referencing the policy in correspondence when behaviour becomes unreasonable a change in behaviour is usually noted, without the Council having to resort to commencing the formal steps outlined in the Unreasonably Persistent Customer policy itself.

**LOCAL GOVERNMENT ACT 1972**

**AS AMENDED BY**

**THE LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

**STANDARDS COMMITTEE**

**22 MARCH 2019**

**REPORT OF THE MONITORING OFFICER**

**BACKGROUND PAPERS**

<b>UNREASONABLY      PERSISTENT CUSTOMER POLICY – UPDATE AND ANNUAL REVIEW 2018 - 2019</b>	<b>Officer to contact: Mr A. Wilkins, Tel: 01443 424105</b>
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**Freestanding Matter**

# POLICY ON THE MANAGEMENT OF UNREASONABLY PERSISTENT CUSTOMERS

## 1. INTRODUCTION

- 1.1 In general, dealing with complaints is a straightforward process. However, there are a small number of customers who pursue their cases in a way that can impede the investigation of their complaint or have significant resource issues for the Council in dealing with the issues that they raise. For example, the sheer number or nature of their enquiries/ correspondence may lead them to be considered as 'persistent' or 'vexatious'.
- 1.2 The purpose of this policy is to ensure that whilst the Council's services to users are not being restricted or diminished, such unreasonably persistent customers (sometimes referred to as vexatious complainants) are dealt with consistently and fairly across all services. It also ensures that staff and elected Members are aware of the process for identifying such customers, the options available for action and who can authorise them. This policy does not apply to any partnership arrangements.
- 1.3 This policy may be used by elected Members in conjunction with the Protocol for elected Members for dealing with Anonymous Correspondence.

## 2. DESCRIPTION OF AN UNREASONABLY PERSISTENT CUSTOMER

- 2.1 An 'unreasonably persistent customer' is categorised as such because of the frequency or nature of their contacts or complaint. The customer may take up what the Council regards as a disproportionate amount of time and resources and disrupt service delivery for themselves and others.
- 2.2 In exceptional circumstances action must be considered to limit customer contact with the service concerned. However it is recognised that they may wish to raise other legitimate issues concerning other service areas
- 2.3 Examples of unreasonably persistent customer behaviour are detailed below, may be made in person, by telephone, in writing, by email, or fax and may relate to an individual, a number of individuals, or a group.
  - aggressive, intimidating, threatening behaviour displayed during telephone calls or when visiting Council offices/premises which may upset staff, customers or elected Members.
  - numerous repeat calls which disrupts service delivery and upsets staff.
  - insistence that issues be dealt with by a supervisor/manager.
  - making excessive demands on staff time whilst a complaint is being investigated.
  - submitting repeat issues of concern/complaints.
  - refusing to accept a decision once a complaint has been investigated.

- changing the basis of a complaint as the investigation proceeds or introducing trivial or irrelevant information for comment.
- making groundless complaints about staff.
- refusing to accept that a complaint is outside the remit of the Council.
- refusing to co-operate with staff dealing with their issues of concern.
- seeking to have a complaint investigated by someone else, once the Complaints Procedure has been exhausted.
- making malicious, unwarranted or defamatory comments against staff or elected Members or making remarks which are a protected characteristic as defined by the Equality Act 2010.

### **3. THREATS TO HEALTH AND SAFETY/ POTENTIAL CRIMINAL ACTION**

- 3.1 If a member of staff feels threatened by contact with a member of the public they will report this to their Service manager in writing, explaining the reason(s) why.
- 3.2 Where there is an imminent risk of harm, the Service manager may immediately temporarily exclude the customer from the premises to prevent escalation of the situation. If the Service manager believes that the customer should be excluded on a long term basis, this requires the agreement of the Head of Service/Service Director, under the provisions of 2.2 above.
- 3.3 The member of staff will complete the appropriate Health & Safety Violence at Work incident report form (HS V1) for the Service manager to formally record the incident and take any necessary action.  
For example:
- i) Head of Service/Service Director to write to the customer concerning their behaviour and if necessary set conditions for further contact with staff, such as restrictions upon attendance at Council establishments.
  - ii) Report the matter to the police.
- 3.4 Threatening, abusive or offensive customer behaviour during a telephone call to staff is unacceptable. When such calls are received by staff they will explain that the call will be terminated if such behaviour continues. When staff terminate a call, a note will be placed on the case file explaining why this course of action was taken.
- 3.5 Repeated calls of this nature may be deemed as harassment and referred by the Service manager to the Head of Service, to be reported to the police. Any physical or verbal assaults on a member of staff or elected Member or any other customer will be reported to police.
- 3.6 There will be no right of appeal against a decision to exclude a person/group from one or more Council buildings where that decision was made for Health & Safety reasons (as set out in HSV1).

#### 4. ELECTRONIC RECORDING OF VERBAL COMMUNICATION

- 4.1 The electronic recording of meetings or telephone conversations by customers with staff or elected Members may be considered as intimidating. If a customer intends recording a conversation by electronic means (e.g. by mobile phone or Dictaphone), this must be made clear to the other party beforehand and requires their agreement.
- 4.2 There is no obligation for staff or elected Members to agree to the electronic recording of such conversations/meetings. When a member of staff/elected Member states they are not happy to proceed with a recorded conversation/meeting, the customer will be expected to comply with this, and not undertake any recording.
- 4.3 If staff or elected Members comply with a recorded conversation, it must only be retained for personal use by the customer, to help with their recollection of the discussion. It must not be shared with any third party for any reason.
- 4.4 Any covert recording of meetings / telephone calls by customers will be considered unreasonable behaviour and the customer will be subject to appropriate action as outlined in this policy.

#### 5. MANAGING UNREASONABLY PERSISTENT CUSTOMERS

- 5.1 The following two stage process will be used across all Council services for dealing with Unreasonably Persistent Customers.

Stage 1	Stage 1 Service Action	Follow Up/Action
<p>Officer reports customer behaviour to Service manager/ Head of Service, who will determine whether behaviour was unreasonable (as per UPC descriptions in 2.2).</p>	<ul style="list-style-type: none"> <li>• Head of Service in consultation with Service Director, issues warning letter that restricted contact may be introduced if UPC behaviour continues, including details of appeal process (cc to Service F/Back officer).</li> <li>• Head of Service/ Service Feedback Officer notifies Principal Democratic Services Officer of warning letter issued for a central record and to inform an annual report to Standards Committee.</li> </ul>	<ul style="list-style-type: none"> <li>• If customer appeal is received, the Principal Democratic Services Officer will:               <ul style="list-style-type: none"> <li>i) notify the relevant Group Director to consider appeal;</li> <li>ii) inform customer whether or not the Group Director upheld the appeal.</li> </ul> </li> </ul>
Stage 2	Stage 2 Service Action	Follow Up/Action
<p>Customer continues to behave unreasonably in his/her dealings with the Service despite receiving a warning letter at Stage 1.</p>	<ul style="list-style-type: none"> <li>• Group Director in consultation with Monitoring Officer determines restricted contact arrangements.</li> <li>• Principal Democratic Services Officer will:</li> </ul>	<ul style="list-style-type: none"> <li>• Any further contact from customer will be treated in accordance with this policy. For example:               <ul style="list-style-type: none"> <li>i) repeat/further</li> </ul> </li> </ul>

	<ul style="list-style-type: none"> <li>i) write to customer of decision regarding restricted contact arrangements/termination of contact.</li> <li>• ii) maintain record of decision/action taken for inclusion in annual monitoring report to Standards Committee in terms of the process applied to the customer and decision determined.</li> </ul>	<p>correspondence will be placed on file.</p> <p>ii) abusive/intimidating telephone calls will be terminated.</p>
<p><b>Note:</b> The authority reserves the right to implement this policy immediately at Stage 2 in exceptional circumstances without issuing a Stage 1 warning. In such cases the customer will be notified of the reasons why immediate action was considered appropriate.</p>		

5.2 Any decision on restricting contact will be appropriate to the customer's behaviour and based on their specific circumstances. For example, where customers bombard the Council with correspondence on an issue which has already been addressed, any subsequent or repeat correspondence received will be considered to identify any new issues raised. If none are evident, the correspondence will just be placed on file.

5.3 Group Directors, in consultation with the Monitoring Officer will have discretion to impose the following restrictions:

- Restricting contact within manageable and reasonable time restrictions.
- Restricting contact with a specified officer or team, or at a particular time or place.
- Restricting telephone contact to specific days and times.
- Exclusion from one or more Council establishments, due to unreasonable or violent behaviour.
- Restricting contact in a particular form, for example contact by letter only.
- Requiring the customer to enter into an agreement regarding further contact with the Council.
- Complete termination of contact with a customer or permanent exclusion of a customer from Council premises.

5.4 Any decision to restrict contact will be a Service based decision, and will not be applied Council wide. For example, Customer Services may restrict contact in a One4All Centre but this arrangement would not necessarily apply to the same customer at a Leisure Centre.

5.5 Awareness of the decision to restrict or terminate contact with a customer will be circulated to the appropriate service team.

5.6 Exclusions will normally be reviewed and determined on a case by case basis but in extreme cases may be permanent. When a customer exclusion has been imposed but is subsequently ignored, the period of exclusion may be immediately reviewed, extended or possibly made permanent.



## **6. APPEAL PROCESS**

- 6.1 If a customer is unhappy with the decision to identify him/her as unreasonably persistent at Stage 1 of this policy, he/she has 15 working days to appeal against the decision. Appeals should be made in writing setting out reasons why the customer disagrees with the decision. Appeals should be made to:

Principal Democratic Services Officer,  
Legal & Democratic Services,  
The Pavilions,  
Clydach Vale,  
Tonypany,  
Rhondda Cynon Taf.  
CF40 1NY

- 6.2 The Principal Democratic Services Officer will notify the Group Director of any appeals received at Stage 1 of the process and will inform the customer concerning the decision reached, that their appeal is either “upheld” or “not upheld”.
- 6.3 Further unreasonably persistent customer behaviour will be considered by the Group Director in consultation with the Monitoring Officer to determine the level of restricted contact arrangements to be applied.
- 6.4 The Principal Democratic Services Officer will notify the customer in writing of the decision reached. The Monitoring Officer will report to Standards Committee concerning the process applied to the customer and decisions taken to invoke restricted contact arrangements.

## **7. REVIEW**

- 7.1 A review of the decision to categorise a customer as ‘unreasonably persistent’ will be undertaken no later than 12 months following the date of the decision made to restrict contact.
- 7.2 The review will be undertaken by the Customer Feedback Group, to ensure a review at cross cutting service level and to consider any relevant contact information for the restriction period.
- 7.3 The Customer Feedback Group will review each case and recommend whether customer restrictions should continue, or be fully/partially removed. The Principal Democratic Services Officer will notify the relevant Group Director of the recommendations made following the review.
- 7.4 The Group Director will consider the Customer Feedback Group recommendations and will notify the Principal Democratic Services Officer as to whether or not they are endorsed. The Principal Democratic Services Officer will notify the customer accordingly.

## **8. MONITORING ROLE OF THE STANDARDS COMMITTEE**

- 8.1 The Monitoring Officer will present an annual report to Standards Committee summarising all decisions made and action taken in respect of unreasonably persistent customers.
- 8.2 Standards Committee will review each case in order ensure that the Policy has been appropriately administered and adhered to.

## **9. NEW ISSUES ARISING FROM UNREASONABLY PERSISTENT CUSTOMERS**

- 9.1 Any new issues raised by an unreasonably persistent customer will be treated on their merits. The Group Director concerned will consider whether any restrictions already applied remain appropriate and necessary in terms of any new issue raised.

## **10. OTHER RELEVANT POLICIES / PROTOCOLS**

- Customer Feedback Scheme
- Violence at Work Policy
- Protocol for Elected Members to deal with Anonymous Correspondence.

## APPENDIX 2

### PROTOCOL FOR ELECTED MEMBERS TO DEAL WITH “ANONYMOUS CORRESPONDENCE” RECEIVED FROM INDIVIDUALS.

1. This protocol sets out how elected Members will respond to individuals who:
  - submit ‘anonymous’ correspondence to elected Members of Rhondda Cynon Taf, refusing to reveal their identity, and
  - whose correspondence may be interpreted as intimidating, threatening or unreasonably persistent.
2. This protocol should be read in conjunction with the Councils Customer Feedback Scheme Complaints procedure and the Unreasonably Persistent Customer policy. It adds to these documents and does not detract from them.
3. The following approach outlines a recommended course of action to be followed by elected Members who receive “anonymous” e-mail correspondence from individuals.
  - Respond to the individual by e-mail requesting that they make themselves known, explaining that whilst it is accepted that they may not wish to meet face to face or speak via telephone to discuss their concerns, that it is common courtesy to reveal their identity to help identify individuals’ ‘legitimate’ concerns, as opposed being of no substance, which may result in excessive amounts of time taken up to the disadvantage of other constituency or Council business.
4. Should the individual respond and **agree** to reveal their identity, Members will deal with and respond to the individual’s concerns.
5. Should the individual respond and **refuse** to reveal their identity, Members will:
  - i) Bring this to the attention of the Monitoring Officer for advice and recording purposes.
  - ii) Respond to the individual confirming that their anonymous correspondence will not be dealt with for the reasons conveyed previously, stating that any further anonymous contact received will just be placed on file.
  - iii) Forward a copy to the relevant Service Manager for information (if the anonymous correspondence is service specific) together with a copy of the elected Member response, so that a consistent approach can be taken should the service receive the same anonymous contact direct.

6. If the level or nature of follow up correspondence received escalates and/or becomes offensive, intimidating, or disrupts Council and/or constituency business, this will invoke the Council's Unreasonably Persistent Customer policy, whereby restricted contact arrangements or complete termination of contact with the individual may be determined.
7. Should anonymous correspondence received be so extreme that it threatens the safety of elected Members the matter may be referred to the Police for investigation without warning of this action to the individual.

**Annual Review of Unreasonably Persistent Customers**

No.	Service Area	Date	UPC	Nature of UPC Behaviour	Stage(s) of UPC Procedure	Action Taken
1	Highways and Streetcare	Mar-18	Mr A	Repeat and inappropriate correspondence previously addressed. Unfounded allegations, unjust criticism of Officers integrity and using abusive and insulting language	Stage 2	Escalated to Stage 2 without issuing a Stage 1 warning letter. Mr A referred the matter to the Ombudsman who concluded that the issue was a personal matter relating to a council officer's conduct which fell outside the Ombudsman's remit.
2	Pensions and Legal Services	Apr-18	Mr B	Continued to raise repeat, inappropriate and unwarranted allegations over the course of many years	Stage 2	Escalated straight to Stage 2 without issuing a Stage 1 warning letter.
3	Planning	Aug-18	Mrs C	Continued to raise repeat issues and correspondence which had already been addressed	Stage 1	Warning letter issued. No further contact or appeal received.
4	Transportation	Nov-18	Mr D	Continued inappropriate tone of correspondence, unwarranted allegations	Stage 1	Warning letter issued. No further contact or appeal received.