

Scottish Borders Council

**Guidelines for the
Vexatious Complaints &
Correspondence
Policy**

1. Introduction

- 1.1 The Council must expect pressure from its customers if they believe that the Council has failed in its service to them or there have been unacceptable delays in the progress of their complaints or correspondence. Such pressure may be persistent, and in many circumstances, this is reasonable and acceptable.
- 1.2 However, if a customer behaves in a way that is vexatious or unreasonably persistent or demanding the Council will follow its policy on Vexatious Complaints & Correspondence.
- 1.3 These guidelines should be read in conjunction with the Vexatious Complaints and Correspondence Policy and the Complaints Handling Procedure.

2. Features of vexatious and unreasonably persistent or demanding complaints and correspondence

- 2.1 The following points refer to complaints however, these are equally applicable to correspondence. The list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category. The list merely includes examples of the behaviour and actions that the Council experiences, either individually or in combination.

A vexatious or unreasonably persistent or demanding customer may:

- a) have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit to or make obvious)
- b) refuse to specify the grounds of a complaint despite offers of assistance with this from the Council
- c) refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- d) refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure
- e) refuse to accept that issues are not within the power of the Council to investigate, change or influence
- f) insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice
- g) make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced

- h) make an unreasonable number of contacts with the Council, by any means in relation to a specific complaint or complaints (*it is impracticable to suggest a number in these guidelines, so staff must use their own judgement to determine what an unreasonable number is in any one case*)
- i) make persistent and unreasonable demands or expectations on staff and (or) the complaints process after the unreasonableness has been explained in writing, or as appropriate, to the customer. For example, a customer who insists on immediate responses to numerous, frequent and (or) complex correspondence or telephone calls.
- j) harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, or their families, in relation to their complaint
- k) raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- l) introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
- m) change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- n) continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response
- o) deny statements he or she made at an earlier stage in the complaint process
- p) electronically record meetings and conversations without the prior knowledge and consent of the other person involved
- q) adopt an excessively 'scattergun' approach, for instance, pursuing correspondence, a complaint or complaints not only with the Council, but at the same time with a MP, MSP, other councils, elected members of this and other councils or contacting numerous officers at the same time regarding the same matter
- r) persistently approach the Council through different routes about the same issue
- s) refuse 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

- t) make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- u) persist in seeking an outcome which the Council has explained is unrealistic for legal or policy (or other valid) reasons
- v) refuse to accept documented evidence as factual
- w) complain about or challenge an issue based on a historic and irreversible decision or incident
- x) combine some or all of these features

3. Being reasonable

- 3.1 Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example, if agreed timescales are not met, this should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent or demanding customer.
- 3.2 Similarly, the fact that a customer is unhappy with the outcome of correspondence and seeks to challenge it once, or more than once, should not necessarily cause the customer to be labelled vexatious or unreasonably persistent or demanding.
- 3.3 The Council will offer the customer appropriate support, as it would any other customer.
- 3.4 It may be helpful to both parties if the customer has an advocate. If the customer feels that they would like an advocate, the Council must consider offering to help find an independent one. In this case an advocate does not necessarily mean a legal Advocate. It simply means a neutral person to offer support.
- 3.5 If the customer has special needs, the Council will offer relevant support, including, if appropriate, help with finding an advocate. There are specialist bodies which the Council can contact for advice and help.

4. How to apply the policy to a customer

- 4.1 Appendix 1 is a flow chart of the process to be followed in order to apply this policy to a customer.
- 4.2 Before requesting that this policy is applied to a customer the following steps must be taken by the department:
 - a) Contact the customer to:
 - i. discuss his or her behaviour

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- ii. explain why this behaviour is causing the Council concern
 - iii. ask him or her to change this behaviour, and
 - iv. inform the customer of the policy that may be applied and the actions that the Council may take if his or her behaviour does not change.
- b) Ensure:
 - i. in the case of a complaint, that the complaint is being, or has been, investigated properly, in accordance with the Scottish Borders Council's Complaints Handling Procedure.
 - ii. in the case of correspondence, that it is being dealt with and a response is drafted, or has been sent in a timely manner.
- 4.3 If the customer has not already had a meeting about the complaint with a member or members of staff, and provided that the Council knows nothing about the customer which would make this inadvisable, the Department should consider whether offering the customer a meeting with a member of staff of appropriate seniority would be beneficial. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution.
- 4.4 If the customer's behaviour changes as a result of this contact then the departments should continue to deal with complaint or correspondence as per normal processes.
- 4.5 However, if the customer does not alter their behaviour the department should inform the Chief Executive's complaints officer of the intention to bring a case to the Complaints Review Group.
- 4.6 The following documentation needs to be prepared by the department for the Complaints Review Group:
 - a) Timeline of all correspondence relating to the case
 - b) An index of all correspondence relating to the case
 - c) Indexed paper and electronic copies of all correspondence
 - d) Report requesting the application of the policy
- 4.7 Templates for the timeline and report are attached to this guidance as Appendix 2 and 3.
- 4.8 The Complaints Review Group will review the report and all associated paperwork and will produce a proposal for the Chief Executive that either supports or recommends against the application of the policy.
- 4.9 A note of the considerations and decisions will be included in the proposal produced for the Chief Executive.
- 4.10 The Chief Executive, or nominated depute, will make the decision as to whether the policy is to be applied or not. This decision will

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be final.

- 4.11 If the policy is to be applied the Chief Executive will contact the customer in writing, or as appropriate to explain:
- a) Why the Council has taken the decision
 - b) What action the Council is taking
 - c) The duration of that action
 - d) The review process of this policy and
 - e) The right of the customer to contact the Scottish Public Services Ombudsman
- 4.12 The Chief Executive's complaints officer will add the customer to a centrally held list of any customers to whom the Vexatious Complaints and Correspondence Policy has been applied, including details of the restrictions to be applied.
- 4.13 All personal details about the customer and about the complaint will be managed and stored appropriately in line with data protection and records management principles and procedures.
- 4.14 The Chief Executive's complaints officer will then ensure relevant officers are notified. Information about the complaint will not normally be included in such notification.

5. Actions to be taken

- 5.1 The actions the Council are most likely to consider taking are:
- a) requesting contact to be in a particular form for example, letters only
 - b) requiring contact to take place with one named member of staff only
 - c) restricting telephone calls to specified days / times / duration
 - d) requiring any personal contact to take place in the presence of an appropriate witness
 - e) letting the customer know that the Council considers the matter closed and will not reply or acknowledge any further contact from him or her on the specific topic of that complaint (*in this case, a designated member of staff should be identified who will read all future correspondence*). An appropriate route of appeal should be offered, for example to the Scottish Public Services Ombudsman for complaints.
 - f) banning a customer from one or more Council premises
 - g) limit the number of issues that will be considered in a given period and ask the customer to limit or focus their requests accordingly.
 - h) If more than one department is being contacted by the customer, regarding different aspects of the same complaint, the Council must consider:

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- i. setting up a strategy meeting to agree a cross-departmental approach, and
 - ii. nominating a key officer to co-ordinate the Council's response(s).
 - i) At any point throughout this process officers may seek legal advice on a case.
- 5.2 These options are not exhaustive and often local or other factors will be relevant in deciding what might be appropriate action. For instance, any arrangements for limiting a customer's contact must take account of the customer's individual circumstances, bearing in mind such issues as age, disability, gender, transgender, race, sexual orientation and religion or belief.

6. Monitoring and review

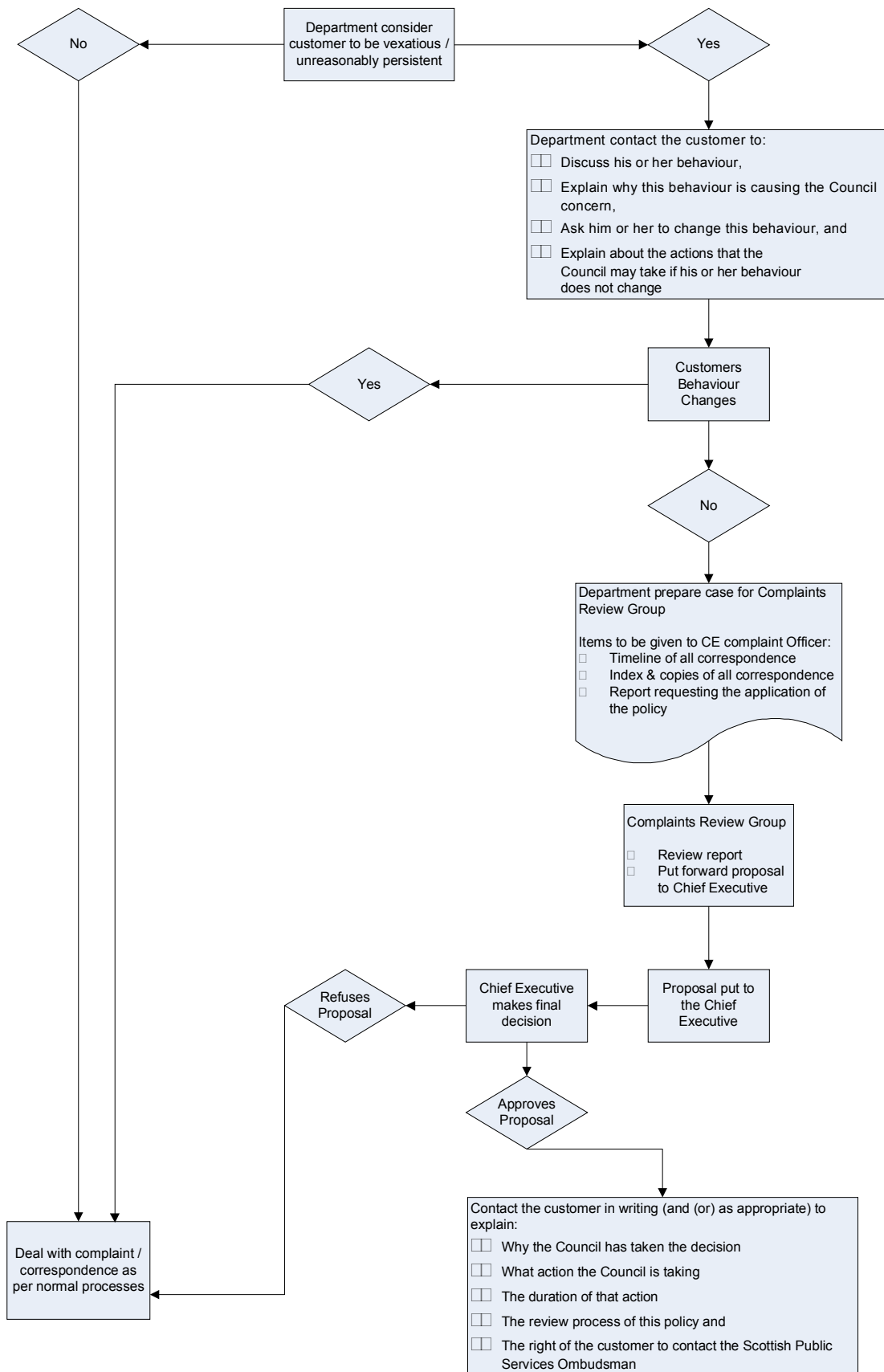
- 6.1 If a customer is deemed to be vexatious or unreasonably persistent or demanding and has restrictions imposed on their contact with the Council their case will be reviewed every 6 months.
- 6.2 Appendix 4 is a flow chart of the monitoring and review process.
- 6.3 The Chief Executive's complaints officer will initiate and prepare the documentation for the reviews to be undertaken by the Complaints Review Group.
- 6.4 The Complaints Review Group will advise the Chief Executive of the outcome of their review.
- 6.5 The Chief Executive will decide whether the policy is to continue to apply to the customer and this decision is final.
- 6.6 The customer will only be informed of the result of the reviews if the decision to apply this policy to him or her has been reversed earlier than expected.

7. Further guidance or advice

- 7.1 If you require any further guidance or advice on a particular case please contact the Chief Executive's Business Support Officer or the Customer Services Operations Manager.

Appendix 1

Flow Chart for Applying the Vexatious Complaints & Correspondence Policy



Correspondence Timeline Template

Correspondence Timeline for Joe Bloggs:

Date	Index No.	From	To	Format	Details – main points from correspondence
<i>dd-mmm-yy</i>	<i>1</i>	<i>JB</i>	<i>JD</i>	<i>Telephone</i>	<ul style="list-style-type: none">

Initials	Full Name
<i>JB</i>	<i>Joe Bloggs</i>
<i>JD</i>	<i>John Doe</i>

Appendix 3

Vexatious Complaints & Correspondence Policy Report Template

Report Requesting the Application of the Vexatious Complaints & Correspondence Policy	
Customers Details	
Name:	
Address:	
Complaint Number:	
Requestors Details	
Department:	
Service:	
Contact Name:	
Details of Complaint / Background to Correspondence:	
Action taken to date and outcomes:	
Case for applying the policy:	
Any other comments:	
Service Directors Name:	
Service Directors Signature:	
Date:	

Appendix 4

Flow Chart for the Vexatious Complaints & Correspondence Policy's Monitoring and Review Process

