

## **PROCEDURE FOR MANAGING VEXATIOUS BEHAVIOUR BY MEMBERS OF THE PUBLIC**

### **1. Introduction**

- 1.1. Oxford City Council ('the Council') takes all reasonable and appropriate actions to respond to citizens in a timely manner. Any concerns or complaints raised will be fully investigated and any issues will be resolved.
- 1.2. In some instances, unacceptable citizen behaviour may prevent or hinder Oxford City Council's officers and councillors in undertaking its functions or carrying out its duties.
- 1.3. This policy is about the management of abusive, persistent and/or vexatious citizens. It sets out how the Council will deal with those individuals that fall within the scope of this definition.
- 1.4. The use of this policy however must be balanced with the Council's primary commitment to transparency, provision of services to our citizens and their legal rights. Use of the policy to impose restrictions on citizens will therefore only be used in exceptional circumstances and when the disruption to the Council and risk to staff and councillors require action to be taken.
- 1.5. The restrictions on a citizen may relate to, interact with, or be connected to FOIA and complaints submitted to the Council. As such there may be interplay between the law on FOIA and the complaints policy and procedure. This policy will not, however, be used as a basis to reject an FOIA or complaint outright with each needing to be considered on its merits.
- 1.6. This policy applies to all areas of the Council.

### **2. Inappropriate Behaviour and Persistent Complaints**

- 2.1. The Council has adopted the Local Government and Social Care Ombudsman's definition of unreasonable or unreasonably persistent citizens:
 

*"unreasonable and unreasonably persistent citizens are those citizens who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints"*.
- 2.2. This guidance applies where a citizen, raising concerns, complaints or making enquiries of the Council does so in a way where their actions are:
  - manifestly unjustified; and/or
  - inappropriate; and/or
  - intimidating; and/or
  - represent an improper use of a formal procedure of the Council; and or

- are occurring at such a frequency as to result in an impact on the Council, its officers and councillors to undertake their functions in a usual manner.

2.3. The following, though not an exhaustive list, may be considered as being in this category:

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with a complaints investigation process.
- Refusing to accept that certain issues are not within the scope of the Council's jurisdiction or within the scope of a complaints procedure.
- 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.
- Making repeat complaints about a councillor which are unsubstantiated or repeat allegations previously considered and dealt with
- Changing the basis of the complaint as an investigation proceeds.
- Denying or changing statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various members of staff, councillors and/or organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations, which the citizen insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.
- Electronically recording meetings and conversations without prior knowledge or agreement (other than formal meetings of the Council and its Committees, where held in public).
- Where the Council's complaints process (Stage 1 and 2) has been exhausted, and/or the Ombudsman has issued a response to the complainant, but the complainant continues to contact the Council to challenge the response.

2.4. The Council will also, in addition to the above, take steps to protect its staff and councillors from members of the public who are behaving in a way which is considered abusive and/or vexatious. This may include physical or

verbal abuse and could include the following (however this list is not exhaustive):

- Speaking to a member of staff in a derogatory manner which causes offence despite being asked to refrain from doing so.
- Swearing, either verbally or in writing at Council staff and/or councillors despite being asked to refrain from using such language.
- Using threatening language towards councillors and/or Council staff which provokes fear.
- Being discriminatory in language or actions, whether on the basis of race, religion, gender, sexual orientation or disability, towards any officer or councillor.
- Repeatedly contacting a member of staff or councillors regarding the same matter which has already been addressed.

### **3. Managing unreasonable citizen behaviour**

- 3.1. This policy may be invoked if the Council considers that a citizen has, at any stage, behaved in a manner which is deemed unreasonable (see above).
- 3.2. The Council may take any actions against a citizen that it considers to be reasonable and proportionate in the circumstances.
- 3.3. Types of actions the Council may take:
  - Where the citizen tries to reopen an issue that has already been considered through one of the Council's complaints procedures, they will be informed in writing that the procedure has been exhausted and that the matter is now closed
  - Where a decision on the complaint has been made, the citizen should be informed that future correspondence will be read and placed on file, but not acknowledged, unless it contains important new information
  - Limiting the citizen to one type of contact (for example telephone, letter, email, etc.)
  - Placing limits on the number and duration of contacts with staff per week or month
  - Requiring contact to take place with a named member of staff and informing the citizen that if they do not keep to these arrangements, any further correspondence that does not highlight any significantly new matters will not necessarily be acknowledged and responded to, but will be kept on file
  - Assigning one officer to read the citizen's correspondence, in order to ensure appropriate action is taken
  - Offering a restricted time slot for necessary calls to specified dates and times

- Requiring any face to face contacts to take place in the presence of a witness and in a suitable location

Other than in exceptional circumstances, such as for the safety of staff and/or councillors, the Council will not, however, impose a blanket ban on communication and anything received once limits have been imposed on a citizen will be considered for response on a case by case basis.

#### **4. Matters to take into account before taking action**

- 4.1. Before taking a decision to invoke this policy consideration should be given to whether any further action is necessary, such as:
  - Consideration about whether it is appropriate to convene a meeting with the citizen and a senior officer in order to seek a mutually agreeable resolution
  - If it is known or suspected that the citizen has any special needs then consideration will be given to offering an independent advocate who may assist the citizen with their communication with the Council
  - Where more than one department is being contacted by the citizen, agree a cross departmental approach; and designate a lead officer to co-ordinate the Council's response.
- 4.2. Staff must be satisfied before taking any action as defined by this policy that the citizen's individual circumstances have been taken into account including age, disability, gender, race and religion or belief, mental health.

#### **5. Imposing restrictions**

- 5.1. Where a Service Area or relevant Complaints Team believes that a citizen should have restrictions imposed upon them the matter should, on approval and consideration by the relevant Head of Service, be referred to the Information Governance Team ([data.protection@oxford.gov.uk](mailto:data.protection@oxford.gov.uk)) for advice on whether this is warranted and what would be appropriate.
- 5.2. Advice will be provided by the Information Governance Team and relevant Complaints Team to the Head of Service / Service Area on whether restrictions would be or are warranted (either with or without a prior warning).
- 5.3. Where the behaviour is so severe a warning is not considered appropriate the Head of Service will need the approval of the Head of Law and Governance to impose restrictions without issuing a warning before imposing any restriction. In all other cases a warning must be issued as in 5.4 below.
- 5.4. Where a warning is considered appropriate, the Head of Service / Service Area will write to the citizen and will explain what actions the Council may take if the behaviour does not change.

- 5.5. Where a warning was given, if the citizen continues with the unreasonable behaviour the Head of Service will consult with the Information Governance Team and the relevant Complaints Team about whether it is necessary to take appropriate action by invoking this policy.
- 5.6. When the decision has been taken to apply restrictions to a citizen, the relevant Complaints Team will contact the citizen in writing (and/or as appropriate) to explain:
- why this decision has been taken;
  - what action the Council will be taking;
  - how long the limits being imposed will last & when they will be reviewed;
  - the review process of this policy;
  - what it means in relation to their ability to contact the Council; and
  - the right of the citizen to contact the Local Government Ombudsman about the fact that they have been treated as a persistent/vexatious citizen.
- 5.7. Any restriction that is imposed on the citizen's contact with the Council will be appropriate and proportionate and the citizen will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for initially for between three and six months, with a review of the restrictions on a quarterly basis.
- 5.8. If the citizen continues to behave in a way which is deemed unacceptable then, on the request of the relevant Complaints Team and/or a Service Area, the Information Governance Team, in consultation with the Head of Law and Governance and the relevant Director, may decide to refuse all contact with the citizen.
- 5.9. Where a decision is taken under 5.7 the relevant Complaints Team will write out to the citizen notifying them of this. Again this will be subject to a review period.
- 5.10. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, the Council will consider other options, for example reporting the matter to the Police or taking legal action. In such cases, we may not give the citizen prior warning of that action.

## **6. Sharing information on restrictions internally**

- 6.1. Where restrictions have been imposed on an individual and they will affect their ability to communicate with councillors or officer, there will be the need to inform those internally. Limited information will be shared, setting out:
- What the restrictions are e.g. emails from citizen "A" will be redirected to a single point of contact
  - What implications that has for councillors / staff e.g. all correspondence to Citizen "A" will need to be issued through the single point of contact

- Who to notify where restrictions are not being adhered to e.g. where restricted to specific means of contact (e.g. emails) and this is not being adhered to by the citizen
  - When the restrictions will be reviewed.
- 6.2. Only information necessary to ensure awareness of correspondence management and the means will be provided.
- 6.3. Where a ward councillor is approached by a citizen who has had restrictions imposed on them, they will not need to adhere to the restrictions should they wish to make representations on behalf of the citizen. This can be representations on any matter, including any restrictions imposed under this policy.
- 6.4. Subject to the ward councillor making clear they are representing the citizen, officers will be able to continue to progress the matter directly with the ward councillor in line with normal casework practices.
- 6.5. Where justified and reasonably required on the basis of safety and security of councillors, officers may disclose where behaviour of a citizen has been significantly abusive, threatening or violent, to the ward member that the citizen resides in their ward.

## **7. Review**

- 7.1. The relevant Complaints Team will notify the Service Area (where appropriate) when the review of any restrictions on a citizen is due to take place. The Service Area will provide information to the relevant Complaints Team and Information Governance Team with recommendations and evidence to support whether restrictions will remain in place.
- 7.2. Should the decision be taken to extend the period of restriction, the citizen will be advised by the relevant Complaints Team in writing that the decision to restrict contact will be put in place for a further specified period (for example six months). The outcome of any subsequent review will be communicated to the citizen, outlining if the restrictions will continue to apply and if so why.
- 7.3. If at the end of the restricted period it is considered that the citizen's behaviour is no longer deemed to be unreasonable, the Council will confirm this in writing advising that the restrictions have now been lifted.

## **8. Ceasing Contact with a Citizen during a complaints process**

- 8.1. There may be occasions where the relationship between the Council and unreasonably persistent or vexatious citizens breaks down completely. This may even be the case while complaints are under investigation and there is little prospect of achieving a satisfactory outcome.

- 8.2. In such circumstances we reserve the right to not carry out the remaining stages of the complaints procedure.
- 8.3. Where this occurs the Council will advise the citizen that they may approach the Local Government & Social Care Ombudsman who may be prepared to consider a complaint before the procedure has run its course.

## **9. Record Keeping**

- 9.1. The relevant Complaints Team will keep a record of all citizens who have been treated as being unreasonably persistent, abusive and/or vexatious in accordance with this policy. This will include details of why the policy was invoked, what restrictions were imposed and for what period of time

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