



## Vexatious Complaints Policy

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### **1. Introduction**

1.1 Healthwatch West Berkshire (HWWB) is committed to investigating and responding to all complaints fairly, comprehensively, and in a timely manner. In addition, we have a duty to provide a safe working environment for staff, Board members and volunteers. However, there may be minority of cases where a person complains in a way that prevents HWWB staff from investigating the complaint; takes up a disproportionate level of resources; or behaves in a way that is unacceptable.

1.2 HWWB does not believe that raising legitimate queries or criticisms of our services or officers should in itself lead to a complaint being regarded as vexatious or a complainant as unreasonably persistent. We accept that if a complainant is unhappy with the outcome of a complaint and seeks to challenge it, this will not cause HWWB to label the complaint as vexatious.

1.3 However, if a complainant behaves in a way that is unreasonably persistent or abusive HWWB will follow this policy. We do not expect our staff or volunteers to tolerate unacceptable behaviour by complainants or any customer and will take action to protect them from this.

### **2. Aims of this policy**

2.1 This policy aims to deal with unacceptable behaviour from complainants and the circumstances in which we may treat a complaint as vexatious or a complainant as unreasonably



persistent. It aims to establish a working environment for our staff where their exposure to unnecessary stress due to the unacceptable behaviour of others is appropriately managed.

2.3 The policy supports our organisational commitment to deal with all complaints in a consistent, fair and reasonable way. It is intended for the use of staff, volunteers and Board members.

### **3. Definitions**

3.1 We define unreasonably persistent and vexatious complaints as those that, because of the frequency or nature of a complainant's contact with our officers, hinder our consideration of their (or other people's) complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complaint.

3.2 We have adopted the Local Government Ombudsman's (LGO) definition of **"unreasonable complainant behaviour"** and **"unreasonable persistent complaints"**

3.3 HWWB will treat as unacceptable any behaviour that seeks to harass, verbally or physically (including threats) abuse or otherwise intimidate our staff, volunteers and Board members. This can include the use of foul or inappropriate language or the use of offensive and racist language.

3.4 Abusive behaviour may be demonstrated through:

- Using threatening, offensive or foul language on the telephone
- Using threatening, offensive or foul language face to face
- Sending multiple threatening or offensive emails
- Leaving multiple threatening or offensive voicemails
- The use of offensive or threatening posts on social networks

### **4. Examples of unreasonable or persistent behaviour**

4.1 Features of an unreasonable or persistent complainant include the following (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).

4.2 An unreasonable or persistent complainant may:

- refuse to specify the grounds of a complaint despite offers of assistance
- refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- 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 or make obvious)
- 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



- refuse to accept that issues are not within the power of HWWB to change or influence (examples could be a complaint about a service or issue related to another organisation)
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint)
- make what appear to be groundless complaints about the officers dealing with the complaints, and seek to have them dismissed or replaced
- make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints
- make persistent and unreasonable demands or expectations of officers and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails, social media posts)
- 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
- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- electronically record meetings and conversations without the prior knowledge and consent of the other person involved
- adopt an excessively ‘scattergun’ approach, for instance, pursuing a complaint or complaints not only with HWWB, but at the same time with a Member of Parliament, officers of the Council(s), elected Councillors, any of the Councils’ independent auditors, the police, solicitors, and the Local Government or Parliamentary Health Standards Ombudsman
- Submitting repeated complaints after the complaints process has been fully completed as per the Complaints Policy.
- persistently approach HWWB through different routes about the same issue
- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons
- combine some or all of these features

## 5. Dealing with abusive behaviour

5.1(i) Our officers accept that people are often under considerable pressure, stress or who are feeling angry or upset, and may react in an abusive or aggressive way to the person with whom they are dealing. However, a balance must be drawn between the ability and desire to assist a complainant and what can reasonably be achieved in the circumstances.

5.1(ii) Our staff, volunteers and Board members are trained to make reasonable allowances for a complainant’s behaviour and to understand that it does not, of itself, mean that a complaint is unjustified. However, there may be a small number of cases where the nature and /or behaviour of the complainant is abusive and/or unreasonable and, even after making allowances for the cause of their behaviour, it is deemed inappropriate and unacceptable, as per this policy.



## 5.2 Over the telephone

5.2(i) In situations where the language and content of telephone calls becomes abusive or threatening to officers, it is acceptable for an HWWB employee to terminate a telephone conversation.

5.2(ii) In all cases the employee should remain polite and, wherever possible:

- provide the complainant with the opportunity to modify their behaviour, by informing the complainant that unless they do so, the call will be terminated
- If a call needs to be terminated as a result of the complainant's conduct a file record must be kept and the service manager advised.

## 5.3 Face to face

5.3(i) The personal safety of the HWWB staff, volunteers and Board members are of paramount importance and if during face to face meetings the complainant's behaviour becomes aggressive, abusive or displays high levels of distress the meeting should be brought to an end as quickly as possible.

5.3(ii) The decision to end a meeting should (if possible) be explained clearly and politely, so that the complainant does not feel that they are being dismissed or their complaint ignored. Unless it is clearly inappropriate to do so, they should also be informed that it may be possible to continue the conversation at a future meeting when they are less distressed.

5.3(iv) Where a meeting is terminated because of the conduct of the complainant a file note of the incident must be made and the matter brought to the attention of the service manager.

## 5.6 In correspondence

5.6(i) HWWB staff, volunteers and Board members in receipt of abusive or threatening correspondence need not reply to this other than to acknowledge its receipt.

## 5.7 Through social media

5.7(i) We aim to respond to all social media posts made on our HWWB account within 24 hours or less. Anyone using our HWWB social media accounts to raise complaints will, whenever possible, be:

- Responded to quickly in the same way that the comment was made to reassure other users that the issue has been responded to.
- Encouraged to move discussion of the complaint away from the public areas by continuing discussions through private/direct message to the person who has made the complaint.
- Responded back to with an update

5.7(ii) Any social media posts containing expletives or racial slurs or any other abusive comments against our staff, volunteers or Board members will be removed immediately and the abuse reported to the social media organisation.

5.7(iii) Although it may not be possible to view posts on social media user's private pages, regular checks are made of our own social media networks and we will investigate and



report as abusive any private posts that we become aware of that are threatening or abusive or our staff, volunteers or Board members.

#### 5.8 To the Management Team

5.8(i) A number of abusive and/or unreasonably persistent complainants seek to escalate their complaints to members of Management Team, in particular the Chief Executive.

5.8(ii) In these circumstance members of Management Team will:

- a) If it's appropriate, refer the complainant back to the officer dealing with their complaint. If this is not appropriate due to the nature of the complaint, it will be escalated to another manager or senior manager.
- b) Adopt an evidence based, open and blame-free approach to complaint management c) Be as supportive as possible of decisions taken by their staff
- d) Ensure they are in possession of all the facts before responding Or ....ensure their investigation has been fully completed before responding to the complainant, and notifying them of any delay to the timescales and the reasons why.

#### 5.9 When there is a serious incident

5.9(i) This policy is specifically aimed at dealing with complaints that have become vexatious. However, in extreme cases where there are direct and credible threats or incidents of violence, this will be referred immediately to the police.

5.9(ii) If the behaviour is serious enough to involve the police, the relevant manager will make this decision.

6.0 HWWB encourages consumers to approach us with questions about service delivery and to challenge any service that they feel has failed. HWWB always seek to learn from issues raised.

6.1. In all cases where a customer feels that the service they have received has fallen short of the high standards we set for our organisation their complaint will be investigated in accordance with our published complaints procedure.

6.2 If a complainant is persistently abusive when they contact our staff, volunteers or Board members or persistently call to discuss a complaint or make further complaints and this is proving time consuming and disruptive, the following steps will be taken to deal with this:

- a) A senior manager will contact the complainant either by phone, in writing or by email to explain to the complainant why their behaviour is causing concern and ask them to change their behaviour. The senior manager will explain the actions that HWWB may take if the behaviour does not change.
- b) If the disruptive behaviour continues, a senior manager will write to the complainant advising them that the way in which they will be allowed to contact us in future may be restricted. The letter will contain information about the procedures that have been put in place to deal with the complainant. This will include information about any flagging of their account and the reasons for this.



6.5 Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Refusing to take further contact by telephone except through a third party e.g. solicitor/councillor/friend acting on their behalf
- Refusing to accept emails from the complainant insisting instead that they correspond by letter
- Restricting the complainant from accessing any of our offices except by appointment
- Requiring contact to take place with one named member of staff only in an appropriate place
- Restricting telephone calls to specified days / times / duration
- Requiring any personal contact to take place in the presence of an appropriate third party.
- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence)
- Restricting or even denying social media users access to our sites.

6.6 Informing complainants of a decision

When the decision has been taken to apply restrictions to a complainant, a senior manager will contact the complainant in writing (and/or as appropriate) to explain:

- why we have taken the decision,
- what action we are taking,
- the duration of that action
- the review process of this policy, and
- the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as an unreasonable or persistent complainant.

6.7 Where a complainant continues to behave in a way which is unacceptable, a senior manager, in consultation with The Advocacy People Area Manager may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

6.8 Where the behaviour is so extreme or it threatens the immediate safety and welfare of HWWB staff, volunteers or Board members, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action.

## **7. New complaints from people who have been identified as abusive, unreasonable or persistent**

7.1 New complaints from people who have who have been identified as abusive, unreasonable or persistent under this policy will be treated separately. A senior manager will decide whether any restrictions which have been applied before are still appropriate





and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are well founded.

7.2 The fact that a complainant is judged to be abusive or unreasonably persistent and has had restrictions imposed on contact previously, will be recorded and notified to those who need to know within our client Councils.

## **8. Review arrangements**

8.1 The status of a complainant judged to be unreasonably persistent or abusive will be reviewed by the senior manager after six months and at the end of every subsequent three months within the period during which the policy is to apply.

8.2 The complainant will be informed of the result of this review if the decision to apply this policy them has been changed or extended.

## **9. Referring unreasonable or persistent complainants to the Local Government Ombudsman**

9.1 In some cases, relations between HWWB and unreasonably persistent complainants break down completely while complaints are under investigation and we may not achieve a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs, the Ombudsman may be prepared to consider a complaint before the procedure has run its course.

## **10. Record keeping**

10.1 Adequate records will be retained by the appropriate senior manager of the details of the case and the action that has been taken and will include:

- a) the name and address of each person who is treated as abusive, vexatious or persistent
- b) When the restriction came into force and ends
- c) What the restrictions are
- d) When the customer and services were advised

10.2 The Board of HWWB will be provided with an annual report giving information about customers who have been treated as vexatious/persistent as per this

## **11. Equality and Diversity**

11.1 We believe that all our local residents, regardless of background or ability, deserve to have the same opportunity to benefit from the services we provide. We will ensure that local residents with particular needs are able to communicate with us and will be treated by our staff in a manner that takes their needs into account.



11.2 It is an aim of HWWB that:

- all local residents receive equal access to services irrespective of age, race, sex, disability, faith or sexual orientation
- all staff are trained on equality and diversity issues and are equipped to deal with our customers' specific needs

11.3 People with learning disabilities and mental health problems may not be aware that their behaviour is considered unreasonably persistent or vexatious. This may also be the case if English is not the customer's first language. HWWB staff, volunteers or Board members will take extra care when writing to the customer to ensure they understand any action we are taking because of their behaviour. Alternative formats for correspondence will be used if needed.

## **12. Monitoring and Review**

12.1 Compliance with this policy will be monitored annually as part of the review of Health and Safety in the Corporate Health report. The policy itself will be reviewed every three years, or in response to relevant changes in legislation, organisational structure, development of good practice, or to address operational issues.





Version Number	3
Date of Equality Impact Assessment	23/05/18
Date approved by HWWB Board	
Author	Andrew Sharp
Date Implemented	20/04/18
Last revised	12/08/2020
Next revision due	12/08/2022
<b><u>If required this policy can be supplied in different formats</u></b> <b><u>Tel: 01635 886 210 or email: <a href="mailto:contact@healthwatchwestberks.org.uk">contact@healthwatchwestberks.org.uk</a></u></b>	
All personal data collected in relation to this policy will be held in accordance with Data Protection Legislation.	