

Unreasonable Complainant Conduct Policy **(April 2017)**

The Office for the Police and Crime Commissioner in Hertfordshire for Dealing with Unreasonable Complainant Conduct

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Unreasonable Complainant Conduct Policy

1. Introduction

The primary function of the Customer Response Team (CRT) is to receive and process complaints/concerns and dissatisfactions in relation to policing within Hertfordshire including any issues with the staff in the Police and Crime Commissioners office for Hertfordshire.

In dealing with complainants, we require our staff to explain comprehensively and clearly the reasoning behind our decisions and why, where relevant, a complainant's argument or preferred outcome is not tenable.

While, in the majority of cases our complainants interact with the Office in a restrained and reasonable manner, we fully appreciate that some are particularly stressed when pursuing complaints against the police, and that from time to time, this stress will show in how they interact with this Office. Each member of our staff knows that managing such interactions is an intrinsic part of the job.

However, this does not mean that we expect our staff to tolerate behaviour by our customers that is abusive, offensive, threatening or, due to the frequency of contact, accounts for a disproportionate amount of time and resources that could be spent more effectively dealing with other complaints and concerns. This issue is particularly acute at a time where resources are at a premium.

2. Policy Statement

Herts PCC Office is committed to providing a high quality service to everyone we deal with. We value all kinds of customer feedback, and expressions of dissatisfaction are treated seriously and recognised as a tool for us to identify and implement service improvements.

We are committed to dealing with all customers fairly and impartially. As part of this service we do not normally limit the contact that our customers have with us. However, in a minority of cases, customers can pursue their dissatisfactions/complaints or queries in a way which can either impede the progress of their issue or can create serious resource issues. These actions can occur either while their complaint/concern is being dealt with, or once we have concluded our findings.

This policy aims to guide PCC staff in the management of unreasonable or unreasonably persistent customer complaints. This policy is based on guidance from the Local Government Ombudsman and what is regarded as good practice in dealing with such customers, and what the Information Commissioner would regard as good practice in relation to repeated or vexatious requests.

An unreasonable or unreasonably persistent customer can take up a disproportionate amount of time that can hinder the other work of staff. We must therefore ensure that we use our resources wisely and limit the amount of time spent on queries that we consider to be unreasonable or unreasonably persistent.

Complainants demonstrating unreasonable behaviour and unreasonably persistent complainants may have justified complaints or grievances but are pursuing them in inappropriate ways; or, they may be intent on pursuing complaints that appear to have no content or which have already been dealt with and responded to.

The decision to restrict contact with our offices will be taken by the CRT Manager (or other senior managers where appropriate) and will normally follow a prior warning to the complainant. Any restrictions imposed will be appropriate and proportionate. Amongst the options we may consider are:

- Requesting contact in a particular form (for example, written correspondence only);
- Requiring contact to take place with a named case manager;
- Restricting telephone calls to specified days and times; and/or
- Asking the customer to enter into an agreement about their future contact with us.

In all cases, where we decide to treat a customer as an unreasonable or unreasonably persistent complainant, we will write to tell the customer why we believe their behaviour falls into that category, what actions we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.

If we decide to carry on treating someone as an unreasonable or unreasonably persistent complainant and their complaint is still being looked into three months later, we will carry out a review and decide if restrictions will continue.

Where a customer whose case is closed persists in communication with us about the same issue, we may decide to terminate contact with that customer about the matter. In such instances, we will read all correspondence from that customer, but unless there is fresh evidence or new information which affects our decision on the complaint we will either acknowledge it without further comment, or place it on the file with no acknowledgement.

New complaints dealing with unrelated issues from people who have come under the unreasonably persistent complainant's policy will be treated on their merits.

3. Definitions

Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as an unreasonably persistent complainant. Similarly, the fact that a customer is unhappy with the outcome of a complaint and challenges it once, or more than once, should not necessarily cause them to be labelled unreasonably persistent. CRT has an established complaints procedure which allows people to pursue their complaint through various stages and on to the Professional Standards Department, IOPC (Independent Office of Police Conduct) or the Ombudsman (if complaining about CRT staff after OPCC Chief Executive has dealt) if they remain dissatisfied with the outcome.

Unreasonable Complainant Conduct

This type of behaviour is classified as unreasonable complainant conduct and can be identified as comprising of:

Unreasonable Persistence: Persistence with a complaint/concern that has already been investigated, dealt with and closed by the CRT/Police, often after internal appeal. The persistence may be manifested in different ways; for example, insisting that the complaint be looked at again by another officer (following completion of appeal process), reframing the complaint to present it as a fresh complaint, or persevering with an argument that has earlier been addressed.

Unreasonable Demands: An outcome or approach is expected that is unrealistic or disproportionate. Examples include repeated demands for investigation or follow up of a matter that is outside the remit, seeking a remedy that is disproportionate or unrealistic, or trying to direct the CRT as to how to conduct the enquiry/concern.

Unreasonable Lack of Co-operation: Persistent presentation of a complaint in a disorganised manner. Examples include: not identifying the complaint clearly, presentation of often unnecessary voluminous material while expecting almost instantaneous responses, transforming the complaint midway through the investigation/enquiry process, and (occasional) dishonesty in the statement of facts.

Unreasonable Arguments: Examples include exaggerating issues, presenting irrelevant and/or unreasonable arguments, placing too much emphasis on trivialities, insisting that the complainant's version of events be accepted as fact where there is no objective evidence to support this view, obstinately refusing to consider counter-arguments, being guided by unfounded conspiracy theories and/or by desire for revenge or retribution against another person or public body.

Unreasonable Behaviour: Unreasonable behaviour includes threats of violence, abuse of the OPCC's staff, rude or aggressive conduct and threats of self-harm.

One or more of the following indicators can be a characteristic of unreasonable or unreasonably persistent complainants. They make complaints, requests, concerns or enquiries that:

- Clearly do not, or no longer have, any serious purpose or value
- Are obviously vexatious in nature
- Have the effect of causing disruption or annoyance
- Have the effect of harassing CRT/PCC staff or,
- Can otherwise fairly be characterised as obsessive or unreasonable
- Take up an unreasonable amount of time and hinder the other work of PCC Office

Unacceptable behaviour can include;

- Abusive, offensive or threatening behaviour
- Behaviour which amounts to bullying or harassment

The following are examples of customer actions/behaviours which may cause this policy to be invoked:

- Unwillingness to comply with police and PCC's procedures
- Insisting on issues or requests being dealt with in ways which are incompatible with Herts PCC and Constabulary's procedures or with good practice.

- Making unreasonable demands of staff or setting unreasonable timescales for response.
- Making unreasonable requests in relation to who should deal with their complaint, enquiry or request, or how it should be dealt with.
- Repeatedly being unwilling to accept documented evidence.
- Insisting incorrectly that no response has been received or that the response is unacceptable.
- Sending a high volume of letters, emails and/or phone calls (at times to multiple recipients).
- Continuing to add new, or making trivial, complaints, requests or enquiries.
- Repeatedly complaining or making repeat requests about similar issues after they have already been dealt with.
- Making many complaints, requests or enquiries about different issues in succession.
- Refusing to specify the grounds of a complaint, despite offers of assistance with this from CRT staff.
- Making groundless complaints about the staff dealing with the complaint or request, and seeking to have the staff replaced.
- Refusing to accept that issues or requests are not within the remit of a procedure despite having been provided with information about the procedures scope. An example; if the customer has been advised that a complaint or request is within the remit of another authority, yet refuses to accept this.
- Changing the basis of a complaint or request as it proceeds and/or denying statements made at an earlier stage.
- Introducing trivial or irrelevant new information which the customer expects to be taken into account, or raising large numbers of detailed but unimportant questions and insisting that they are fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a “scattergun” approach; pursuing complaints or requests with CRT and, at the same time, with a Member of Parliament/a Councillor/legal services/local police/solicitors/the Ombudsman. Additionally, if a complaint has been escalated to Professional Standards Department (PSD) and also insisting CRT deal simultaneously, when a complaint has been escalated to PSD or triaged accordingly CRT will have no remit or control over the complaint handling.
 - Submitting repeat complaints or requests, with minor variations, after the processes have been completed.
 - Refusing to accept a decision and/or repeatedly arguing points with no new evidence.
 - Combinations of some or all of the above.

4. The Process.

If any member of PCC staff experiences one, or a number of, the examples given in the definitions section then they may be dealing with an unreasonable or unreasonably persistent customer. In this instance they are advised to follow the process below:

Staff member notices customer behaviours that may meet the definition of unreasonable or unreasonably persistent and informs line manager.



Line manager to assess if this policy applies and review the evidence (to consult with a relevant Senior Manager if required) CRT Manager to write to customer making it clear what the unreasonable or unreasonably persistent behaviour is.

CRT Manager/Senior Manager informs relevant staff of decision.
The CRT manager is to issue a warning to the complainant advising what sanction will be imposed if this behaviour persists



Sanction imposed if repeat behaviour occurs.

CRT Manager/Senior Manager should write to inform customer making it clear how the sanction will work and how long it will last.

The letter must make it clear what the unreasonable/unreasonably persistent behaviour is, to whom any appeal should be made and should include a copy of this policy



The customer's details, details of the sanction and date for review are added to the Customer Unreasonable Conduct Register.

5. How We Will Manage Such Behaviour

When we consider that a customer's behaviour is unreasonable we will tell them why we find their behaviour unreasonable and we will ask them to change it. Where it might be of assistance, we will consider possible adjustments to our service which may help the customer to avoid unreasonable behaviour into the future.

However, if the unreasonable behaviour continues, we will take action to restrict the customer's contact with our Office. The decision to restrict access to our Office will only normally be taken after we have reviewed the service given by our Office to the particular customer. The decision will be taken at Senior level. (CRT Managers and above). Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- requesting contact in a particular form (letters only),
- requiring contact to take place with a named person,
- restricting telephone calls to specified days and times,
- restricting access to the Office,
- asking the customer to enter into an agreement about their future conduct, and, ultimately,
- terminating all contact with the complainant where the behaviour shows no signs of abating (this decision will be taken at Chief Executive level)

In all cases, we will write to tell the customer why we believe their behaviour is unreasonable and what action we propose to take. However, where the behaviour is so extreme that it threatens the immediate safety and welfare of the CRT/PCC's staff or others, we will consider other options, for example, reporting the matter to the Constabulary or instigating legal action. In such cases, we may not give the complainant prior warning of that action.

Regardless of the complaint's behaviour, our staff will act respectfully to the complainant and impartially with regard to the complaint.

6. Deciding when to apply the policy

No action under this policy should be taken until the customer has received a written warning. This warning should advise what action and sanction CRT/OPCC proposes to take if the unreasonable or unreasonably persistent behaviour continues. This offers the customer the opportunity to amend their behaviour prior to any sanction being imposed. The warning letter must make it clear what the unreasonable or unreasonably persistent behaviour is and should quote dates and times of its occurrence.

It is important to remember that an unreasonable or unreasonably persistent customer may have a valid complaint, concern or request. Before deciding whether the policy should be applied the CRT Manager should always be satisfied that:

- The complaint, enquiry or request has been dealt with properly.
- Any decision reached is the right one
- Communications with the customer have been adequate and appropriate and,
- The customer is not providing any significant new information that might affect CRT's view.

Once satisfied with the above points the CRT Manager should then consider whether further action is necessary prior to making the decision to designate the customer as unreasonable or unreasonably persistent. Examples might be:

- If the customer has special needs, an advocate might be helpful to both parties. Consideration should be given to offering the customer assistance to find an independent one.
- Before applying any restrictions, the customer should be given a warning that if his/her actions continue CRT may decide to treat him/her as an unreasonably persistent customer, and an explanation why.

7. Where the behaviour is considered to be harassment/aggressive

Behaviour which threatens staff safety and welfare may lead to police involvement or legal action. In such cases, where there is a need or justification for protecting staff, CRT may not need to give the customer prior warning of this action.

Where this policy is instigated, If CRT decides to designate a customer as unreasonable or unreasonably persistent then this will be communicated to the customer, in accordance with their needs, in the following ways:

- Sending the customer a copy of this policy
- Explaining why the policy is being applied to the customer
- Detailing what it means for their future contact with CRT and how long any restrictions will last
- Explaining how the customer may challenge this if they disagree with the course of action by means of an appeal to a more senior named manager.
- The CRT Manager will then inform the appropriate staff and senior managers that this action has been taken.

The customer can challenge the action taken by appealing to the named CRT Manager within 10 working days of the initial notification being sent. The named CRT Manager will review the case to determine whether:

- The correct decision was made to invoke the policy and/or
- Any particular restrictions applied are justified. The named CRT Manager will aim to complete the review within 20 working days and will write to advise the customer of;
- The outcome of the review
- If restrictions are to continue to be applied
- If so, when these will next be reviewed.

The CRT Manager will review any restrictions that have been placed on a customer in three months, or when there has been any further contact from the customer, if sooner.

If a customer to whom the policy has been applied has no contact with CRT within the three month period, the CRT Manager will review the position and take a decision whether the sanctions in place should be cancelled. The outcome of the review will be noted on the Customer Handling Plan Register.

If the sanctions are cancelled, urgent consideration will be given to re-introducing the sanctions if the behaviour which led to the original decision re-commences.

In relation to complaints, if the customer has exhausted CRT/OPCC complaints procedure, they are able to request an independent investigation via Professional Standards Department (PSD) or if they seek to appeal a decision made by CRT, that does not fit the remit of PSD, they can contact the Chief Executive at OPCC and then the Local Government Ombudsman.

8. Information and record keeping

Whenever this policy is applied, CRT will record:

- Any correspondence or interaction with the customer whether written or verbal, (to be documented) within the Complaints folder on a form 3 and any relevant information to be added on to the Customer Unreasonable Conduct Register.
- Full details of the complaint or enquiry, including the complainants contact details.

Adequate records will also be kept to show:

- When a decision has been taken not to apply the policy when a member of staff asks for this to be done, or
- When a decision is taken to make an exception to the policy once it has been applied, or
- When a decision is taken not to put a further complaint from the customer through the complaints procedure for any reason, and
- When a decision is taken not to respond to further correspondence, that any further letter, faxes or emails from the customer are checked to pick up any significant new information.

Customer records will be retained electronically by CRT for a period of no longer than 6 years, at which point they will be deleted.

9. Referring Complainants to the LGO

Relations between organisations and customers sometimes break down badly while complaints are under investigation, leaving little prospect of achieving a satisfactory outcome. In such circumstances there may be nothing to gain from following through all stages of the organisation's complaints procedure. In these circumstances, the LGO may, exceptionally, be prepared to consider complaints before the complaints procedure has been exhausted, if the request is made by both sides to the dispute. The exception is if it concerns police operations, or has been dealt with by IOPC and fits within the remit of Police gross/misconduct, or serious death or injury cases as there LGO has no authority to deal in these instances.

A complainant who has been treated as behaving unreasonably may make a complaint to the LGO about it. The LGO is unlikely to be critical of the organisation's action if it can show that it acted proportionately and in accordance with its adopted policy.