



# **Unreasonable Behaviour Policy**

**A guide to the management of abusive or persistent customers and complainants**

**Draft January 2021**

## **Unreasonable Behaviour Policy**

### **Section A Introduction and Purpose of the policy**

#### **1.0 Introduction**

- 1.1 This policy has been produced to create a joint understanding of what is considered acceptable and unacceptable behaviour from our residents, businesses and members of the public (hereafter referred to as Customers /you) in dealing with Employees of Oldham Council, Oldham Clinical Commissioning Group (CCG), The Unity Partnership Ltd and Miocare (Employees/we) and Elected Members of the Council (Members). The policy is set out for reference for Customers, including those who have submitted a formal complaint, Employees and Members and also for external bodies such as the Local Government and Social Care Ombudsman (LGSCO).
- 1.2 In setting out this policy, we recognise a Customer's right to be heard, understood and respected. We will ensure that you are treated fairly, openly, honestly, consistently and appropriately in accordance with our co-operative values. We are keen to work with our Customers to resolve issues at an early stage to achieve the best outcomes for all.

#### **2.0 Purpose**

- 2.1 The purpose of the policy is:
- To define behaviours that are not acceptable and are deemed unreasonable including behaviour by Customers who make frivolous, persistent or vexatious complaints against Employees or Members
  - To ensure that the ability of an Employee or Member to conduct business is not adversely affected by those few Customers who behave in an unreasonable manner
  - To ensure that Employees and Members have a safe working environment and are not exposed to unnecessary stress due to the unacceptable behaviour of Customers
  - To empower Employees and Members to deal confidently and effectively with unreasonable behaviour in the small number of cases where this occurs
  - To set out a clear process about how unreasonable behaviour will be managed
- 2.2 Employees and Members operate in public life and their standards of behaviour should reflect the 7 principles of public life<sup>1</sup>. These principles equally apply to elected representatives and those working in and delivering public services. When implementing this policy, you can expect us to respond to you in ways that demonstrate these principles. The

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<sup>1</sup> <https://www.gov.uk/government/publications/the-7-principles-of-public-life>

principles and how we will demonstrate these in terms of this policy are set out below

**Table 1: Our standards of behaviour**

Principle of Public Life	Examples of our standards of behaviour in the execution of the Unreasonable Behaviour Policy
Selflessness	We will act in the public interest
Integrity	<p>We will act with integrity e.g. we will avoid placing ourselves under any obligation to those seeking inappropriately to influence us in our work.</p> <p>We will declare and resolve any conflict of interests and relationships.</p> <p>We will treat you with dignity and respect</p>
Objectivity	We will take decisions impartially, fairly and will use evidence to make decisions without discrimination or bias.
Accountability	<p>We are accountable for the decisions we make.</p> <p>We will set a date to review the decisions we have made to ensure we do not apply open ended restrictions on contact.</p>
Openness	<p>This policy is available online and will be issued to you with letters setting out any action taken under this policy.</p> <p>We will follow this policy when making decisions.</p> <p>We will explain to you why we have acted under this policy.</p>
Honesty	We will be honest in making decisions under this policy

Leadership	<p>We will challenge and take action where we experience unreasonable behaviour</p> <p>We will be clear, balanced and professional in our dealings with you.</p> <p>We will follow our policies and procedures in addressing our own behaviour where it falls short of these principles.</p>
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2.3 We have a duty to protect Employees and Members and recognise our obligations to Customers. When allegations are made against Employees, we will carry out appropriate investigations in accordance with our internal policies and procedures. Complaints against Members will be dealt with in accordance with the standards procedures.

2.4 We do not tolerate offensive, threatening, abusive or other forms of unacceptable behaviour. Under these circumstances, we will take appropriate action to protect the health and wellbeing of Employees, Members and the integrity of our processes and business.

**3.0 Who does this policy apply to?**

3.1 This policy applies to all Customers including those who have submitted a formal complaint to us. It also applies to advocates/advocacy services acting on behalf of Customers.

**4.0 When can the policy be invoked?**

4.1 This policy will normally be invoked on the basis that unreasonable behaviour has taken place over a period of time. However, in exceptional circumstances, the policy will be invoked following a single incident if this incident of unreasonable, unacceptable or vexatious behaviour merits immediate action.

4.2 Subject to the exception set out in paragraph 4.1, a decision to invoke this policy must be made based on documented evidence (examples are outlined in 17.2). The evidence should demonstrate that a resident’s unreasonable, unacceptable, frivolous or vexatious behaviour has taken place over a period of time. A period of time is not defined in this policy but can include a high incidence of unreasonable contact over a short period of time or a history of unreasonable behaviour over a longer timeframe.

**5.0 Equalities and Diversity and reasonable adjustments**

5.1 When implementing the policy, we will have regard to the Equalities Act 2020 and show due regard to an individual’s medical condition or vulnerability such as mental health and learning disabilities, as and when applicable. Any restrictions imposed on Customer contact will recognise and be appropriate to the circumstances.

## **6.0 Support for Employees**

- 6.1 We will act quickly to ensure that our Employees have a safe working environment (actions are set out in Section D).
- 6.2 Support is available for Employees who are affected by unreasonable or abusive behaviour from Customers or complainants. The Employee Assistance Programme(EAP) offers free counselling support 24/7. Further details are available on the Council's intranet
- 6.2 Advice can also be obtained from the Complaints Manager about the management of Customer behaviour.

## **Section B Recognising Unreasonable Behaviour**

### **7.0 What behaviour is unreasonable?**

7.1 We understand that when you contact us, you may have reason to feel angry, aggrieved, upset or distressed.

7.2 We do not view assertive behaviour (for example putting your case forward in a persuasive manner) as unreasonable. However, we will manage behaviour that is aggressive, rude or abusive or which places unreasonable demands on Employees or Members.

7.3 Unreasonable behaviour is behaviour or language, whether face to face, by telephone, social media or written that may cause staff or councillors to feel intimidated, threatened or abused. Examples may include:

- Threats
- Verbal abuse
- Racist and sexist language
- Derogatory remarks
- Offensive language
- Rudeness
- Making inflammatory statements
- Raising unsubstantiated allegations

7.4 Whilst we accept that those in contact with us may feel angry, it is not considered acceptable when that anger becomes aggression directed towards Employees or Members.

7.5 Verbal and online abuse, threats, harassment or physical violence against Employees or Members will not be tolerated and will be reported to the police, who may decide to prosecute.

### **8.0 Unreasonable requests**

8.1 Requests may be considered unreasonable by the nature and scale of service expected. Examples may include:

- Requesting responses within unreasonable timescales
- Insisting on speaking with specific Employees or Members
- Adopting a "capture-all" approach by contacting Employees, Members and/or other third parties
- Making repeated and unnecessary contact during the investigation of a complaint

8.2 We recognise that our resources, including time, must be used where they can be most effective. This might mean that we cannot respond to every issue in the way a Customer would like, if in doing so it would take up a disproportionate amount of time and resources that could be used elsewhere to support the most vulnerable in our community.

8.3 We ask you to recognise that due to volume of work we deal with that we may not be able to respond immediately to your requests. This does not

mean that your concerns are not important to us. If we have asked for your patience but you continue to pursue your concerns, we may consider such behaviour to be unreasonable.

## **9.0 Unreasonable Communication**

9.1 Communication may be considered unreasonable where Customers:

- Continually contact us while we are in the process of investigating their concerns
- Make several approaches about the same matter without raising new issues
- Refuse to accept a decision made where explanations for the decision have been given
- Continue to pursue complaints /issues which we have reviewed and consider to have no substance
- Continue to pursue complaints/issues which have already been investigated and determined
- Continue to raise unfounded or new complaints arising from the same set of facts
- Continue to raise unfounded or new complaints about us on social media without giving us the opportunity to deal with these issues directly with you and through the normal channels
- Use threatening or abusive language
- Send large volumes of irrelevant documentation

## **10.0 How will we manage unreasonable behaviour?**

10.1 We have a zero-tolerance position on violence and threats against Employees and Members and this behaviour will always be reported to the Police.

10.2 Employees and Members have the right to terminate telephone conversations where Customers are behaving unreasonably, aggressively or abusively.

10.3 Employees and Members have the right to take steps to protect their own safety if they feel threatened in a face to face encounter with a Customer. Examples of these steps include contacting the Police to remove you from our premises or applying a ban to prevent you visiting our premises in future.

10.4 We may decide to restrict communications with you if you do not modify your behaviour. If we do restrict communication with you, we will consider which is the most appropriate and proportionate approach to take. We will consider options in consideration of the nature, extent and impact of your behaviour on our ability to do our work.

10.5 We will be transparent and explain to you what restriction we are putting in place, our reasons for doing so and how long the restriction will apply. The restrictions we may apply are set out in Section D of this policy.

## **11.0 Definition of Unreasonable Behaviour and Unreasonably Persistent Complaints**

11.1 We have adopted the Local Government & Social Care Ombudsman's (LGSCO)<sup>2</sup> definition of unreasonable behaviour and unreasonably persistent complaints;

'Unreasonable and unreasonably persistent complainants are those complainants 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.'

## **12.0 Features of unreasonable and unreasonably persistent complaints**

12.1 Features of unreasonable and unreasonably persistent complaints include the following

*N.B this list is not exhaustive, nor does one example necessarily imply that the person will be considered as being in this category*

- Refusing to specify the grounds of a complaint, despite offers of help
- Refusing to cooperate with the complaints' investigation process while still wishing their complaint to be resolved
- Having insufficient or no grounds for their complaint and making the complaint only to annoy/ cause inconvenience (or for reasons that the complainant does not admit or make obvious)
- Refusing to accept that certain issues are not within the scope of a complaints procedure or that the issues are not within our power to investigate, change or influence e.g. where the issue is the responsibility of another organisation
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice e.g. insisting that there must be no written record of the complaint
- Making unjustified complaints about Employees who are trying to deal with the issues and seeking to have them replaced or dismissed
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage and requiring that the complaint is investigated again
- Raising many detailed but unimportant questions, and insisting they are all answered
- Submitting falsified documents from themselves or others.

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<sup>2</sup> <https://www.lgo.org.uk/information-centre/reports/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour>



- Adopting a 'scatter gun' approach, for example pursuing the same complaint or complaints with various Employees and Members at the same time as with a Member of Parliament or other external bodies, requiring us to use multiple resources to deal with enquiries when resources could be better used to investigate and respond to the initial complaint
- 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 the complainant insists make these 'new' complaints.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other person involved
- Refusing to accept the decision; repeatedly arguing points with no new evidence.
- Harassing or verbally abusing or otherwise seeking to intimidate Employees or Members dealing with their complaint by using foul or inappropriate language, including racist, sexist and other offensive language
- Complaining about an issue based on a historic and irreversible decision or incident
- Persistently arguing the same point, asking us to change records, information or decisions when we have already explained our position
- Combining some or all of these features or persisting in behaviour that has the intention or impact of causing harassment to Members or Employees

## **Section C: Formal complaints and unreasonable behaviour**

### **13.0 Unreasonable behaviour by a Customer making a formal complaint**

- 13.1 Dealing with a complaint should be a straightforward process but in a minority of cases, Customers pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for us. This can happen while the complaint is being investigated or after we have finished dealing with the complaint.
- 13.2 We are committed to dealing with complaints fairly, comprehensively and in a timely manner.
- 13.3 We will not normally limit the contact with Customers who make a complaint but we do expect that our Employees and Members are treated respectfully. This applies to verbal, written or face to face contact. Unreasonable behaviour is set out in Section B of this policy and applies to Customers including those who are making a complaint.
- 13.4. We will act to protect Employees and Members from unreasonable behaviour in accordance with this policy.
- 13.5 Raising legitimate concerns 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.
- 13.6 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once or more than once, should not necessarily cause him or her to be labelled unreasonably persistent.

### **14.0 Deciding the course of action to be taken**

- 14.1 While we cannot spend excessive time in dealing with unreasonable or unreasonably persistent complaints, we will also try to avoid inflaming an already difficult situation.
- 14.2 It may be worth spending some time defusing a situation, rather than taking a hard line and then spending more time holding that position. The best way of handling a situation will be a matter of judgement and should be considered in the first instance by the service manager. Support and advice is also available from the Complaints Manager.
- 14.3 If a decision is made that the complaint is unreasonable and will not be dealt with under the complaints procedure or will not be progressed to the next stage, this decision will be clearly communicated to the complainant and reasons given.
- 14.4 In some cases, relations between us and unreasonable complainants break down while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In these cases, there may be little purpose in following all the stages of the complaints' procedure.

Where this occurs, the relevant Ombudsman may be prepared to consider a complaint before the procedure has run its course.

### **15.0 What happens if we then receive complaints about the same matter?**

- 15.1 If the complaint is essentially about the same matter and no different information or very minor differences have been presented to us
- If the complainant has not exhausted our complaints procedure, then the complaint will go to the next stage of the relevant complaints' procedure.
  - If the complainant has exhausted the complaints procedure but has not been referred to the LGSCO or other relevant Ombudsman or the Information Commissioner's Office (ICO), the complainant will be referred there.
  - If the complainant disagrees with the decision of the LGSCO, ICO or other relevant body, they will be referred there
  - If the complainant continues to contact us on the same matter, then we will explain that we will not enter into further correspondence on the matter and that further correspondence will be read and filed but that no further action will be taken
- 15.2 Sometimes, we are presented with further complaints about similar matters that are slightly different from the original complaint but about the same broad area of activity. These complaints can be vexatious and the service manager will use judgement to decide if the complaint should be investigated as a new complaint. In some cases, we may decide not to use the complaints procedure if the complaint is trivial or if the complainant has not suffered any injustice. The Service Manager and the Complaints Manager would need to agree this course of action before it was taken.
- 15.3 New complaints about different matters will be considered as normal under our complaints' procedure taking account of any restrictions we may have applied on communication.

## **Section D – Taking Action**

### **16.0 Imposing Restrictions**

- 16.1 If a decision to impose restrictions on contact is being considered, the Service Manager will decide if a restriction should be imposed. This decision will be made in consultation with the Director(s) responsible for the area of work and the Complaints Manager.

### **17.0 Gathering Evidence**

- 17.1 Evidence of the unreasonable behaviour is required and it is important to note that the policy will not be invoked if there is insufficient evidence to support our actions.
- 17.2 Evidence such as a contact log, file notes, emails, social media postings screen shots etc can be used to demonstrate the unreasonable behaviour e.g. retaining a copy of an abusive email.

### **18.0 Options to manage unreasonable behaviour**

- 18.1 If Customers continue to behave unreasonably after we have asked them to modify their behaviour, we will consider the following options
- i. Requiring you to contact a named employee or other single point of contact only e.g. the complaints team
  - ii. Restricting contact in writing or to a designated email address only
  - iii. Restricting contact by telephone, face to face or digital to specified days and times
  - iv. Not responding to you if you persistently raise issues which we have considered in full under your right to request a review of that decision. We will decline to respond to further correspondence which does not raise new issues. The correspondence will be read and filed but we will not acknowledge it unless you provide significant new information or evidence relating to the matter.
  - v. Not responding to your correspondence or blocking emails that are abusive or offensive
  - vi. Restricting the issues we will communicate with you about
  - vii. Returning or deleting large volumes of irrelevant communication you have sent to us
  - viii. Blocking your email contact with us if the number or length of or volume of contacts cc'd into the email causes us difficulty in conducting our business
  - ix. Re-directing your emails to a generic email account to be managed for example where you have cc'd many contacts, multiple times
  - x. Requesting that you are supported by an independent third party such as Citizens Advice or a legal representative. This option may be suggested where you have made several unfounded allegations in the past
- 18.2 The list is not exhaustive. Any one option or a combination of them may be applied to Customers.

18.3 A blanket ban on contact will not be applied for an unspecified period of time. We do not support a blanket policy of ignoring genuine service requests or complaints where they are founded and any decision we make we will take this into account.

## **19.0 Corporate Single Point of Contact**

19.10 Where a complainant or Customer continues to behave unreasonably, we may decide to limit contact to a corporate Single Point of Contact (SPOC), normally managed in the Complaints Team. This decision will be made by the relevant Director, the Director of Legal Services and the Deputy Chief Executive.

19.10 This action will usually be considered after the service has attempted to manage contact within the service unsuccessfully or where the Customer is submitting complaints over many service areas or where the particular circumstances of the Customer or complainant require this approach to be taken immediately

19.13 The Complaints Manager will provide support as necessary to Service Managers and Directors in taking the decision to apply a corporate SPOC.

## **20.0 Exceptional Circumstances**

20.1 In exceptional circumstances, we reserve the right to take appropriate action that is specific to the unreasonable behaviour that is under consideration. For example

- When the unreasonable behaviour is being targeted towards one Employee or Member, we may impose a ban on contact to prevent the Customer from contacting that person and to protect their welfare.
- When the unreasonable behaviour includes face to face threatening behaviour to Employees or Members in our buildings, we may impose a ban to prevent the Customer from entering our offices and report the matter to the Police
- When the unreasonable behaviour includes publication of derogatory remarks against Employees or Members either in printed media or online or via social media, we may act to prevent such behaviour where it is appropriate to do so, including reporting the matter to the Police or taking legal action against you.

20.2 We will look at exceptional cases on their own merit and will take all necessary action that we consider is appropriate for the circumstances. The ban on contact will normally be time limited. We will ensure that the action we take is supported by appropriate evidence and that the reasons for taking the decision are recorded.

## **21.0 Notifying the Customer or complainant**

21.2 We will contact the complainant in writing by letter or email setting out

- Why the behaviour is causing concern

- A request for the behaviour to change
- The actions we could take if the behaviour does not change

21.3 In exceptional circumstances, the unreasonable behaviour is such that a decision to restrict contact will be made without first issuing a warning to the complainant or Customer. In these cases, we will explain our decision to impose a restriction without warning to you when we write to you to confirm the restrictions that have been put in place.

21.4 If the unreasonable behaviour continues, restriction(s) will be put in place.

21.5 In some cases, it will be appropriate to issue the letter or email unsigned from a generic organisational email address for example [Customer.feedback@oldham.gov.uk](mailto:Customer.feedback@oldham.gov.uk) . This will be rare but will be considered where there is a history of the complainant or Customer targeting (or they have links with other Members of the public who have a history of targeting) specific Employees and Members in writing, online or on social media.

21.6 In other cases, depending on the severity of the issue and where the unreasonable behaviour covers more than one service area, the notification may be issued by more senior Employees or our legal team.

21.7 The letter or email will explain

- Why we have taken this decision
- What action we are taking
- How long the action will be in place for
- Your right of appeal
- Your right to contact the LGSCO or other relevant body about the restrictions placed on you under this policy

21.8 A copy of this policy will be enclosed with the letter

## **22.0 Review of the Decision**

22.1 A decision to restrict contact is time limited, usually for 3, 6 or 12 months and will be reviewed by the Employee who made the original decision. The review will take place shortly before the end date of the period of restriction.

22.2 The Customer or complainant will be informed in writing (by letter or email) of the result of this review if the decision to apply this policy has been changed, ended or extended.

## **23.0 Right of Appeal**

23.1 When we write to a Customer or complainant about a decision to restrict or extend restrictions on contact, we will set out the right to request an appeal. The appeal must be submitted within one month of the date of the letter.

23.2 An appeal will not be considered by the Employee making the original decision. A different Employee will be appointed to consider the appeal

e.g. this could be the line manager of the Employee who made the original decision or a Service Manager or Director from a different service area as appropriate.

23.3 There will be no further right of appeal.

## **24.0 Record Keeping and sharing of information**

24.1 Records will be kept by the Service Manager, and where appropriate the Complaints Manager, of the details of the case and the action that has been taken. The record will include

- The name and address of the Customer
- What the restrictions are and when these end/are due to be reviewed
- The evidence to support the decision making
- When the Customer/complainant were notified of the restrictions
- If this information has been shared with other services as appropriate including any outside of our organisation

24.2 Examples of the standard format/templates to use when keeping records and decision makers' responsibilities in maintaining records and conducting reviews will be available for Employees and Members on the Council's intranet.

24.3 When making a decision to share information within the Council and with third parties, the Council will always be guided by the provisions of the Data Protection Act (DPA) and the General Data Protection Regulations (GDPR) and will ensure that the Customer's rights to have their information processed in accordance with the statutory requirements is protected and adhered to.

24.4 We may seek legal advice about how best to manage unreasonable behaviour and safeguard the health and safety of Employees and Members. Such advice will be subject to legal and professional privilege and will not be shared with Customers.

## **25.0 Review of Policies**

25.1 The Corporate Complaints Policy and Unreasonable Behaviour Policy will be published on [www.oldham.gov.uk](http://www.oldham.gov.uk) These policies will be reviewed annually (or as a change is required). The Deputy Leader and Cabinet Member for Finance and Green has delegated authority to agree these changes in consultation with the Director of Finance.