Department of Community and Children’s Services

Vexatious Complaints Policy

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# Document Control Sheet

## Revisions

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Introduction

The City of London’s Department of Community & Children’s Services (DCCS) aims to provide a speedy, fair and effective response to complaints. We acknowledge, however, that certain complaints can be difficult to resolve and can cause anxiety and distress to both complainant and staff. Staff will do their utmost to respond sympathetically to all complainants and will, wherever possible, try to find a way to resolve matters.

We do, however, recognise that staff and managers are sometimes presented with challenging situations and have to deal with difficult service users and residents, some of whom may behave in an unreasonable or unacceptable manner. We also know that there are cases which are particularly difficult to resolve to the satisfaction of all parties. Although these represent a very small number of overall complaints, they can generate a huge and disproportionate amount of additional work. They may also cause anxiety, distress and frustration to staff, who may feel their professional reputation is in question when they have, in fact, followed procedures correctly.

Whilst we understand that the complainant may also be distressed and frustrated, we recognise that there are occasions when it is necessary to draw a complaint investigation to a close and, in extreme circumstances, to withdraw from further correspondence with the complainant for a period of time.

Policy aims

The DCCS Vexatious Complaints Policy aims to:
- define the situations when a complaint or complainant may be identified as vexatious;
- protect staff from unreasonable or unacceptable behaviour which may cause them anxiety or distress;
- provide staff with a clear procedure to bring the case to the attention of senior managers;
- set out a process for making a decision to invoke the policy, which is transparent and fair to all parties;
- identify sanctions which may be used to address a vexatious complaints issue.

Legislative and policy framework

There is no legislative basis on which a complaints policy must be based. This policy fits within the City of London’s Corporate Complaints Policy and takes into account guidance from the Housing Ombudsman and the Local Government and Social Care Ombudsman, as well as regulatory standards.
Definition of a complaint

A complaint is an expression of dissatisfaction, however made, about the standard of service given or the action or lack of action taken by the City’s staff in responding to a customer request or enquiry. Examples of a complaint can include where the complainant believes staff have:

- failed to do something that should have been done;
- failed to meet service standards
- treated a customer rudely or unfairly

A request for a service, information or an explanation will not be treated as a complaint; staff should be given the opportunity to respond to the request or enquiry and to follow required procedures, taking the action they consider appropriate. If the customer is dissatisfied with the response or action taken, then we would consider this expression of dissatisfaction to be a complaint.

Definition of a vexatious complaint or complainant

A vexatious complaint is one where the complainant’s concerns have been investigated and responded to, following the City’s procedures, but where the complainant, having exhausted all avenues, continues to make further complaints on the same topic, ignoring apologies or explanations and referrals to appropriate independent bodies.

In some cases, the original complaint may turn into a campaign against the City or its staff, often involving repeated complaints on a wider range of subjects, and the involvement of politicians, media and other agencies. Whilst the intervention of a local politician or appropriate agency to advocate for a service user can be appropriate at any stage during the complaints process, it is not reasonable once the process has been completed, or as part of a campaign of this nature.

A complainant who subjects staff to intimidating or abusive behaviour at any stage of the complaints process may be considered vexatious.

Data Protection and Confidentiality

The City of London is aware of its obligations under the Data Protection Act 1988 and will handle any information received in accordance with the rules and regulations set out within this act.

As far as possible, all complaints will be treated in confidence. The name of the person complaining will not be divulged more than is absolutely necessary and will not be given to a third party without the agreement of the complainant. However, people making complaints must appreciate that if
their complaint involves another person, it cannot be investigated without speaking to that person, and it may not be possible to conceal the identity of the complainant.

**Equal opportunities**

The City of London operates an Equality & Diversity policy and this applies to all aspects of its services. When dealing with complaints, no complainant, or their representative, will be treated less favourably on the grounds of age, race, nationality, ethnic origin, religious belief, disability, gender, sexual orientation or personal belief.

This policy and all related information can be made available in different formats and languages on request.

**Who can use the vexatious complaints policy?**

This policy is primarily for the use of managers and staff of the City of London’s Department of Community & Children’s Services. It will be provided to any person for whom it is invoked, for their reference.

**What is not covered by this policy?**

Assaults on staff and threats against them, both verbal and physical, are a matter taken very seriously by the City of London. Other policies and procedures, including anti-social behaviour legislation will apply to incidents of this nature, although these may be used in addition to the Vexatious Complaints Policy.

**Criteria for identifying a vexatious complainant**

To be identified as ‘vexatious’ a complainant must display one or more of the following behaviours:

- They persist in pursuing a complaint when the complaints procedure has been fully and properly implemented and exhausted. In such instances the complainant will have been apprised of their right to contact the Ombudsman;

- They change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed;

- They are unwilling to accept documented evidence of treatment given as being factual, e.g. computer records, or deny receipt of an
adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed;

- They do not clearly identify the precise issues they wish to be investigated, despite reasonable efforts of staff, and/or where the concerns identified are not within the remit of the Service to which they have made the complaint;

- They focus on a trivial matter to the extent that it is out of proportion to its significance and continue to focus on this point. It is recognised that determining what constitutes a trivial matter can be subjective and careful judgement will be used in applying these criteria;

- They have in the course of addressing a registered complaint, made an excessive number of contacts with the City of London, placing unreasonable demands on staff. A contact may be in person, or by telephone, letter, email or fax. Discretion will be used in determining what an excessive number of contacts is, taking into account the specific circumstances of each individual case;

- They are known to have recorded meetings or face-to-face/telephone conversation without the prior knowledge and consent of other parties involved;

- They have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaints. The City of London recognises that complainants may sometimes act out of character at times of stress, anxiety or distress, and will make reasonable allowances for this;

- They display unreasonable demands or expectations and fail to accept that these may be unreasonable e.g. insist on response to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice;

- They adopt an excessively ‘scattergun’ approach, for instance, pursuing a complaint or complaints not only with a particular Service but at the same time with elected Members, a Member of Parliament, other councils, elected members of other councils, the council’s independent auditor, the Standards Committee, the police, solicitors and the Local Government and Social Care Ombudsman (LGO) or Housing Ombudsman (HO);

- They fail to make use of the appropriate Complaints Policy but continually bombard staff with issues ‘informally’;
- They refuses to accept an open apology;

- They make allegations of racist, sexist, homophobic, abusive, or otherwise unacceptable behaviour from staff, which are either unsubstantiated, or found to be unfounded;

- They make defamatory statements about officers publicly, through meetings, social media, or other channels;

- They refuse to use the formal process, insisting on ‘going straight to the top’ and contacting politicians and senior managers before staff have had an opportunity to resolve the issue.

Procedure for invoking this policy

Stage 1
If staff consider that a complainant meets one or more of the criteria above and that the Vexatious Complaints Policy should be invoked, they should:
- bring this to the attention of their Assistant Director, via an email, copying this to the Department Complaints Officer;
- explain in the email which criteria apply to the complainant.

In most cases, the Assistant Director will write to the complainant, advising them that their behaviour is unacceptable and that the vexatious complaints policy will be invoked if it continues. In serious cases which are causing anxiety and distress to staff, the Assistant Director may proceed directly to Stage 2.

Stage 2
If the vexatious behaviour continues, the Assistant Director will call a case conference. This will include the managers involved in the case, the Departmental Complaints Officer and, if appropriate, the Corporate Complaints Officer. The case will be discussed and the evidence for invoking the Vexatious Complaints Policy will be collated and considered.

If the decision of the case conference is that the Vexatious Complaints Policy should be applied, the Assistant Director will produce a report for the Director of Community & Children’s Services. This report identifies the criteria being met by the complainant and gives examples of their behaviour to substantiate this. The report will also outline the impact of this behaviour on staff and service delivery. E-mails and other correspondence may be attached to the report as further evidence.

The Director will consider the report and will come to a view on the sanctions to be applied. If it is felt that there may be corporate implications of these sanctions, the Director may discuss the decision with the Town Clerk before taking action.
Once a decision has been made, the Director will write to the complainant, advising them of the decision and the sanctions to be applied, and enclosing a copy of this policy for their reference.

**Sanctions available to the Director**

If the Director agrees that the complainant has behaved in a vexatious manner, there are a number of sanctions which can be imposed. These are:

- That contact with the complainant will be limited to a single, designated officer (usually the Departmental Complaints Officer) who will co-ordinate all responses to correspondence received;
- That the complainant is required to enter into a mediation process with staff from the service involved in the complaint to establish a reasonable means of communicating, before any further correspondence is accepted;
- That no further correspondence or direct contact from the complainant will be accepted or responded to by staff from the department. Exceptions to this include, but are not limited to:
  - Where the contact is in connection with an emergency which may pose a risk to the safety of any individual or group of people;
  - Where the contact is to make an appropriate service request (e.g. for a tenant to report a repair). In this instance, the contact should be restricted to the appropriate channel (e.g. Repairs Reporting Line);
  - Where communication is regarding a financial transaction with the City (e.g. paying of rent or service charges)

If this sanction is applied, it should be subject to a review no later than 12 months from the date of the letter.

**Notifying elected Members**

If the Vexatious Complaints Policy is invoked, the Director will provide a short, confidential report on the case to the Chairman and Deputy Chairman of the appropriate Committee or Sub-Committee. In Housing cases, the appropriate Allocated Member will also receive a copy of the report.

**Appealing against the Director's decision**

The Vexatious Complaints Policy is only invoked in serious situations. The decision to use sanctions against the complainant is not made lightly, and is based on evidence of the unacceptable behaviour. Therefore, there is no right to appeal against the decision.
However, the complainant may wish to take their case to the Local Government and Social Care Ombudsman for an independent review of the case. Officers will provide the Ombudsman with a copy of all papers relevant to the application of the Vexatious Complaints Policy as evidence of the behaviour of the complainant.

The complainant may also wish or to enter into a dialogue with the Director or appropriate Assistant Director through an independent third party. This may be a mediation service, a legal representative, or an agency providing advocacy services. Officers will respond positively to a request of this nature, as long as it is constructive.

**Continuation of vexatious behaviour**

Where the vexatious behaviour continues after sanctions have been applied, the Chief Officer may decide to involve the City’s Comptroller’s & City Solicitor’s Department to consider if further action should be taken.

**Links to other policies**

This policy links to a number of other policies and procedures, including:

- the City of London’s Corporate Complaints Policy;
- the Housing Service Complaints Policy & Procedure;

**Further Information**

For further advice or information please contact the Departmental Complaints Officer, Sharon McLaughlin, on Tel: 020 7332 3498 or email sharon.mclaughlin@cityoflondon.gov.uk.