



Report to Customers and Communities Committee

11 September 2014

Title: Vexatious Contact Guide

Report of: Managing Director

Purpose of Report

1. To recommend to the Board approval of a draft of the Vexatious Contact Guide.

Background

2. The company is committed to providing excellent services to tenants and leaseholders with one of our company values being 'Customer focussed, innovative and professional'.
3. Our employees aim to deal with all genuine enquiries and complaints effectively, appropriately and in a timely manner. There are however rare occasions where this may be prevented by vexatious or unreasonably persistent behaviour.
4. In May 2014, Board received a report outlining the findings of the review of Complaints and Compliments within the company. At this meeting, Board approved a revised policy for complaints and compliments and associated recommendations. This included a recommendation to introduce an approach to vexatious contact.
5. A working group made up of officers from across the company and a representative from Gateshead Council was established to implement the recommendations of the review.

Vexatious Contact Guide

6. The Local Government Ombudsman provides guidance on managing unreasonable complainant behaviour or unreasonably persistent behaviour.
7. Their definition is: *"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"*
8. It is now regarded as commonplace to have a procedure or guidance of this nature in place. As part of the process to develop this guide, a number of other organisations were approached, all of which had adopted similar themes based on the Ombudsman advice.

9. The guidance for vexatious contact is attached at the appendix to this report. This covers all contact which could be considered vexatious, rather than being restricted solely to complaints.
10. The guide covers the following areas:
 - Definitions to help officers identify who this may apply to
 - Procedure for how we would implement our approach to dealing with vexatious contact
 - Suggested actions or responses that we may take as a result of identifying someone as vexatious
 - The process for monitoring and review
11. The procedure ensures that we will apply this in a fair and consistent way through involving the service manager, Head of Service and the complaints officer in this process. This will help to identify the most appropriate action to take such as introducing a single point or method of contact.
12. The customer would be notified by the complaints officer of our intention to apply this procedure and the reasons why. This helps us to explain what the issue is, and also provides the customer with an opportunity to change their behaviour before any restrictions are applied.
13. It is proposed that summary information on vexatious contacts will be provided through the six monthly update on complaints and compliments presented to this committee.

Next steps

14. Subject to approval at this committee, the guidance will be rolled out to all employees.
15. Service managers have identified potential cases to be considered as vexatious contacts and these will be discussed in further detail before making any decisions about applying the procedure.
16. An update will be provided to Committee through a future Complaints and Compliments Update report.

Link to values

17. This report is aligned to the following company values: -
 - Being a listening and learning organisation
 - Being honest, accountable and transparent
 - Being customer focused, innovative and professional
 - Caring and respecting

Impact on tenants

18. The intention of introducing the guidance on vexatious contact is to ensure that we adopt a fair and consistent approach to dealing with customers whose behaviour maybe in line with this definition. This helps us to deal with genuine enquiries and complaints in a more effective and timely manner.

Risk Management Implications

19. Inappropriate responses to Council leading to negative findings against the company from Local Government Ombudsman/Housing Ombudsman has been highlighted as an operational risk for the company.
20. By providing guidance for employees to follow when recognising behaviour as vexatious, this will help to ensure that our approach is based on consistent reasoning and will potentially reduce the risk for negative findings.

Financial Implications

21. There are no direct financial implications arising from this report.

Equality and Diversity Implications

22. We have carried out the Equality Impact Assessment screening tool for this guidance. Each case would be considered individually and would involve officers from outside the team involved to ensure that cases are treated fairly and consistently.

Value for Money Implications

23. Vexatious contact can be potentially costly in terms of providing information and officer contact time. This procedure helps us to apply a more managed approach to dealing with particular cases and will support officers to respond effectively and timely to contacts they receive.

Health Implications

24. There are no direct health implications arising from this report.

Environmental Implications

25. There are no direct environmental implications arising from this report.

Consultation carried out

26. This guidance has been developed taking into account research undertaken as part of the Complaints and Compliments review. This included researching other organisations approaches and consulting internally with service managers.
27. The complaints working group were also consulted on the draft of this guidance ensuring that this is fit for purpose across different service areas.

Recommendation

28. The committee is requested to recommend to the Board approval of the guidance for vexatious contact.



The Gateshead Housing Company

Working with Gateshead Council

1. Introduction
2. Definition
3. Procedure
4. Monitoring & Review



1.0 Introduction

The Gateshead Housing Company (TGHC) is committed to dealing with all enquiries and complaints appropriately and in a timely manner. However we are aware of the need to ensure that our time is not misspent dealing with vexatious contacts.

1.1 We must also ensure that our employees, councillors and partners are protected from unacceptable or abusive behaviour.

1.2 In managing complaints, we accept that when a customer makes a complaint they may be distressed or emotional and may behave in a way that is out of character.

1.3 We also expect complainants to be persistent in their complaint.

1.4 However, in a minority of cases, people pursue their complaints in a way or to a degree that is unreasonable. This may hinder the investigation of their complaint or have significant resource issues for the organisation.

1.5 There can also be cases where the complaint itself is vexatious rather than the behaviour of the complainant.

1.6 This guide sets out how we will decide which complaints & complainants are vexatious or unreasonably persistent, and what we will do in these cases (including how we will monitor and review them). It also covers vexatious, timewasting contact not related to complaints.

1.7 The purpose of the guide is to help employees to understand what is expected of them and what options for action are available to them when they are dealing with vexatious contacts.



2.0 Definitions

The following are based on the Local Government Ombudsman's (LGO) definitions of "unreasonable complainant behaviour" and "unreasonably persistent complaints". TGHC have broadened the definition of "vexatious complaint" to include contact from customers which may not be associated with a complaint issue.

2.1 *Vexatious complainant*

- Someone who, because of the frequency or nature of their contacts with us, hinders our consideration of their own (or other customer's) complaints.
- Someone who is not seeking to resolve a dispute but to cause unnecessary aggravation or disruption to service delivery.
- Someone with a genuine complaint who pursues it in inappropriate ways. Their contact with The Gateshead Housing Company may be amicable but their demand on employee time is too great or causes distress.
- Someone who pursues complaints that are not valid, or that have already been investigated and settled.
- Someone who fully exhausts the Company's complaints procedure but continues to make contact about the same issue
- Someone who is being legally represented but continues to contact the Company about the issue rather than going through their representative

2.2 *Vexatious complaint or contact*

- Complaints or contact made with the intention of causing distress or disruption to the officers or services involved, or where this is the outcome of their behaviour
- Repeated complaints or contact regarding the same issue, service or employee, where an investigation or response have already been provided and appropriate action taken where applicable.

2.3 The definitions given above are illustrative and are intended as guidance to allow officers to identify behaviour and complaints which may fall within these boundaries.

Further examples of behaviour which is characteristic of vexatious complainants and of vexatious complaints and contacts are detailed in **Appendix A** of this policy.



3.0 Procedure

An employee experiences behaviour or contact which they believe is vexatious. This may include repeated unnecessary contact, persistently difficult behaviour or timewasting. See **Appendix A** for more detailed examples.

- 3.1 The employee should complete a Vexatious Contact Form (**Appendix B**) detailing examples of the behaviour and why they feel the contact should be managed as vexatious, including any evidence (call logs, emails etc)
- 3.2 The employee should then meet with their line manager and the Complaints Officer who will go through the information and supporting evidence and discuss whether there are any mitigating factors or alternative approaches that could be applied instead. This will include checking the customer record for any previous vexatious contact forms. They should come to one of the following decisions:
 - a) to request authorisation to invoke the procedure
 - b) to manage the issues by other means – for example a warning to the customer about their behaviour or additional training and support for the employee
 - c) the contact or behaviour is not vexatious.

In all cases the form should be scanned and held against the customer record for future reference.

- 3.3 The decision to apply this procedure will be an exceptional step and must be authorised by a Head of Service, following consultation with the relevant team manager and Complaints Officer.
- 3.4 The decision must be recorded on the complaints system and Northgate and must be supported by the following information:
 - Grounds for applying the procedure.
 - Any restrictions to be applied, including scope.
 - Date for review – typically after 6 months.

We will also advise frontline staff of contact restrictions for specific customers; for example where the customer has been required to make contact in writing only. This is because employees may not have access to check our ICT systems at the point that they come into contact with the customer – for example when answering the phone.

3.5 Before taking this step, TGHC will:

- Ensure any complaint which has triggered the procedure is investigated fully in accordance with TGHC complaint policy.
- Ensure that the complaint is dealt with in line with other similar complaints.
- Ensure that all relevant sections have met to discuss the complaint where there are cross cutting issues highlighted by the complainant.
- Check all records of previous contact to ensure that all appropriate steps have been taken to provide the customer with requested answers or information.



The Gateshead Housing Company

Working with Gateshead Council

- 3.6 The Complaints Officer will also contact the customer to inform them that we are considering applying this procedure and why. This gives us an opportunity to explain what the problem is, and gives the customer the opportunity to change their behaviour before restrictions are applied.
- 3.7 If the situation cannot be resolved, TGHC will inform the customer of our decision to apply the procedure and the reason behind it.
- 3.8 We will explain any restrictions, and how we intend to manage any contact in future. See **Appendix C** for options which can be considered.
- 3.9 Employees should notify the Complaints Officer of any contact in breach of the restrictions used so that further steps can be taken to manage future contact.



4.0 Monitoring & Review

When implementing the procedure with a customer, a timescale will be set for a review. This will take place between the Complaints Officer and Service Manager to discuss how this has been working, any issues that have occurred and whether the approach should be continued.

The Complaints Officer will provide information to Management Team detailing all current cases

- 4.1 At this stage the Complaints Officer will provide further information on recent contact between TGHC and the customer, and recommend whether or not the procedure should continue to be applied.
- 4.2 Where we believe it is no longer necessary to apply the procedure, the Complaints Officer will contact the customer to let them know that this has been decided, and to confirm what (if any) contact restrictions have been lifted. This will also be recorded on Northgate.
- 4.3 Where we feel it is still necessary to apply the procedure, the Complaints Officer will contact the customer to explain how the decision was reached, and to confirm whether any restrictions are in force. The customer will be given the opportunity to appeal this decision.
- 4.4 An appeal against application of the vexatious contacts guide will be reviewed by the Involvement and Diversity Manager and a Head of Service. The complainant will be expected to set out the reasons why they are opposing this decision.
- 4.5 The appeal decision will then be made and the customer notified in writing within 10 working days



Unreasonably persistent or vexatious complainants and complaints

An unreasonably persistent or vexatious complainant could be someone who:

- Has insufficient or no grounds for their complaint and is making the complaint only to annoy (or for reason that he or she does not admit or make obvious)
- Refuses to specify the grounds of a complaint despite offers of assistance from employees
- Harasses, threatens, verbally abuses or intimidates staff dealing with their complaint
- Refuses to co-operate with the complaints investigation process while still requiring their complaint to be resolved
- Refuses to accept that issues are not within the remit of the complaint policy and procedure despite having been provided with information about the scope of the policy and procedure
- Makes an unreasonable number of contacts with TGHC via letters, e-mails or phone calls in relation to a specific complaint or complaints
- Expects immediate responses to any contact
- Introduces trivial or irrelevant new information whilst the complaint is being investigated and expects this to be taken into consideration or who raises large numbers of detailed but unimportant questions and insists they are all fully answered
- Electronically records meetings and conversations without the prior knowledge and consent of the other persons involved
- Repeatedly complains or makes repeated requests about similar issues after they have already been dealt with
- Denies statements they made at an earlier stage in the complaint process
- Refuses to accept the outcome of the complaint process after its conclusion, complaining about the outcome or denying that an adequate response has been given.
- Adopts a 'scattergun' approach with the intention of causing confusion and duplication – pursuing a complaint or complaints with the company and at the same time with a Member of Parliament, a councillor, an independent auditor, police, solicitor or the Ombudsman
- Persistently approaches TGHC or partners through different routes about the same issue
- Refuses to accept documented evidence as factual
- Complains about or challenges an issue based on a historic and irreversible decision or incident
- Combinations of some or all of these

An unreasonable or unreasonably persistent complaint could be:



The Gateshead Housing Company

Working with Gateshead Council

- Something which does not have a clear or serious purpose or value
- Something designed to cause disruption or distress
- Something which has the effect of harassing TGHC or can otherwise fairly be characterised as obsessive

Lists are not exhaustive and local factors will vary.



Vexatious Contact Form

Name of officer:	
Date completed:	

Name of customer:	
Address:	

Relationship to TGHC (delete those that do not apply)

Current Tenant	Former Tenant	Leaseholder	Applicant	Other
----------------	---------------	-------------	-----------	-------

Summary of vexatious contact (continue on additional sheets if necessary)

- Include dates of contacts
- Attach any evidence such as call logs or emails
- Include any complaint reference numbers or incident numbers

--

Any other information about the customer

Support worker details	
Any special requirements	
Current Alert 01 or NRT involvement?	



To be completed by the referring officer

What action proposing to take and why

Timescale for implementing

To be completed by Complaints Officer

Decision and justification

Management measures to be applied

Review date

Authorisation

Name

Signature

Date



Options which may be considered when managing vexatious complaints or complainants

Where a complaint, or the behaviour of a complainant is deemed to be vexatious we may consider:

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for necessary calls.
- Limiting the complainant to one medium of contact (telephone, letter, email etc.).
- Requiring the complainant to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness, and in a suitable location.
- Refusing to register and process further complaints about the same matter.

The Local Government Ombudsman advises that use of these options should be proportionate to the nature and frequency of the complainant's current contacts and should take the complainant's behaviour and circumstances into account.

The objective is to manage the complainant's unreasonable behaviour in such a way that their complaint can be brought to a conclusion briskly, without further distractions.

Where a final decision on a complaint has been made, we will inform the complainant that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. A designated officer should be identified who will read future correspondence.

Reference:

Local Government Ombudsman

<http://www.lgo.org.uk/publications/advice-and-guidance/unreasonable-complainants/#options>, accessed 17th February 2014