

POLICY ON THE MANAGEMENT OF UNREASONABLE COMPLAINANT BEHAVIOUR

Introduction

In a minority of cases people pursue their complaints in a way that is unreasonable. They may behave unacceptably, or be unreasonably persistent in their contacts and submission of information. This can impede investigating their complaint (or complaints by others) and can have significant resource issues for the Council. These actions can occur either while their complaint is being investigated, or once the Council has finished the complaint investigation.

We are committed to dealing with all complaints fairly and impartially, and to making our services as accessible as possible. But because of the nature or frequency of their contact with the Council, a few complainants behave unreasonably and hinder the consideration of their own, or other complainants', cases.

Definition

This policy covers 'unreasonable complainant behaviour', which may include one or two isolated incidents, as well as 'unreasonably persistent behaviour', which is usually a build-up of incidents or behaviour over a longer period.

For us, unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with the Council, hinder the Council's consideration of their, or other people's, complaints or to generally undertake services or the business of the Council because their actions unreasonably or unfairly impact on the available resources and the day to day running of council services.

We distinguish between 'persistent' complainants and 'unreasonably persistent' complainants. People bringing complaints to the Council are 'persistent' because they feel the Council has not dealt with their complaint properly and are not prepared to leave the matter there. We recognise that almost all complainants see themselves as pursuing justified complaints. For example, criticising a complaints procedure when the standards set out are not met is not unreasonable. If complaints procedures are working properly, then responding to expressions of dissatisfaction and requests for information is not a problem. However, some complainants may have justified complaints but may pursue them in inappropriate ways. Others may pursue complaints, which appear to have no substance or which have already been investigated and determined. Their contacts with the Council may be courteous and amicable but still place heavy demands on staff time, or they may be emotionally charged and distressing for all involved.

Situations can escalate, and sometimes complainants become abusive, offensive, threatening or otherwise behave unacceptably. In response the Council may have to restrict access to its premises or staff, or accordance with its own procedures protecting our staff from harassment and harm.

This Policy covers behaviour which is unreasonable, which may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually a build-up of incidents or behaviour over a longer period.

Examples of unreasonable actions and behaviours

These are some of the actions and behaviours, which are problematic. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper consideration of the complaint or the normal day to day running of services:

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements s/he made at an earlier stage.

- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various organisations.
- 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.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

Unreasonable complainant conduct

We will not tolerate deceitful, abusive, offensive, threatening or other forms of unacceptable behaviour from complainants. When it occurs, we will take proportionate action to protect the wellbeing of our staff and the integrity of our processes.

We must use our staff time and resources to best effect and for the benefit of all residents and service users. Our staff cannot do this if someone tries to dominate our attention with frequent, lengthy contacts and repetitive information. This hinders the consideration of their, or other people's, complaints. When necessary, we will take action to restrict access to our services when unreasonable behaviour of this nature persists.

Warnings

In most instances when we consider someone's behaviour is unreasonable, we will explain why and ask them to change it. We will also warn them that, if the behaviour continues, we may take action to restrict their contact with Council Services.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of our staff we may report the matter to the police or consider taking legal action. In such cases, we may not give the complainant prior warning.

Restricting access to the Council services or complaints process

The Borough Solicitor or Head of legal Services (or appropriate nominee) will decide whether the circumstances justify any restriction of access. The reason for the decision will be explained to the person concerned. It will state how long any restriction will apply for before it is reconsidered. The sort of restrictions imposed could include:

- restricting telephone calls to specified days and limited times
- limiting contacts to one form only (for example, a maximum of one letter or email a week)
- requiring contact to take place with one named staff member
- 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.
- requiring the complainant to enter into an agreement about their future behaviour before their case proceeds, and/or
- managing contact with the help of an independent advocate.

Other suitable options will be considered in the light of the complainant's circumstances. Our objective, wherever possible, is to complete consideration of the complaint on its merits in a managed way. If the complaint is still under consideration six months later, we will review whether the restrictions imposed are still necessary and should remain. Limits should be lifted and relationships returned to normal unless there are good grounds to extend them. If limits are to continue, we will explain our reasons and state when the limits will next be reviewed.

Where a decision on the complaint has been made, we will tell the complainant that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information.

Considerations prior to taking action under the policy

If consideration of a complaint has been completed and exhausted the Council's complaints process, we may end all communication with the complainant on the issue and, where appropriate, refer the complainant to the Ombudsman.

If the complaint is still under consideration steps may be necessary to manage the complainant's behaviour. The Council acknowledges that the decision to designate someone's behaviour as unreasonable, and restrict their access to the Council could have serious consequences for the individual. So, the Borough Solicitor or Head of legal Services (or appropriate nominee) who considers the circumstances should be satisfied that:

- the complaint is being or has been investigated properly
- any decision reached on it is the right one
- communications with the complainant have been adequate, and
- the complainant is not now providing any significant new information that might affect the Council's view on the complaint.

When it is necessary to designate the complainant as behaving unreasonably, we may consider whether some of following steps may assist.

- Offering the complainant a meeting with an officer of appropriate seniority to explore scope for a resolution of the complaint and explain why their current behaviour is seen as unreasonable.
- Sharing our policy with the complainant and warning them that restrictive actions may need to be applied if their behaviour continues.
- Setting up a strategy meeting to agree a cross-directorate/service approach.
- Appointing a key officer to coordinate the Council's response(s).
- Helping the complainant to find a suitable independent advocate especially if the complainant has different needs.

Operating the policy

If a decision is taken to apply restricted access, we will write to the complainant with a copy of the policy to explain:

- why the decision has been taken
- what it means for his/her contacts with the Council
- how long any limits will last, and
- what the complainant can do to have the decision reviewed.

We will keep adequate records to show:

- when a decision is 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 this complainant through your complaints procedure for any reason, and
- when a decision is taken not to respond to further correspondence, and we will make sure any further letters, faxes or emails from the complainant are checked to pick up any significant new information.

When complaints about new issues are made, these will be treated on their merits and whether any restrictions previously applied are still appropriate and necessary.

Terminating access to the Council's Services or Complaints process

If a complainant continues to behave unreasonably, or overrides the restrictions placed on access to our service, we may decide to terminate contact with them and end any investigation into their complaint.

New complaints

New complaints from people whose behaviour has previously been deemed unreasonable will be treated on their merits. Restrictions imposed in respect of an earlier complaint will not automatically apply to a new matter however, they may be taken into consideration..

Referring complainants to the Ombudsman

Rarely relations between a resident/service user and the Council break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there may be nothing to gain from following through all stages of the Council's complaints procedure. In these circumstances, we may, exceptionally, request that the Local Government Ombudsman be prepared to consider complaints before complaints procedures have been exhausted.