

DEALING WITH UNREASONABLE COMPLAINANT BEHAVIOUR

THE VAST MAJORITY OF PEOPLE WHO COMPLAIN ARE GENUINE
WITH GENUINE COMPLAINTS
Any decision to apply this policy will be a rare but sometimes necessary step

1. AIM OF THE POLICY

To deal fairly, honestly and properly with unreasonable complainants while ensuring that other service users, officers or the Council as a whole do not suffer any detriment and that the resources of the Council are used as effectively as possible.

2. WHAT IS UNREASONABLE COMPLAINANT BEHAVIOUR?

Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisations consideration of other people's complaints or operations.

An unreasonable complainant may have a genuine grievance, but take inappropriate steps to seek redress. An unreasonable complainant is a member of the public who complains about issues the complainant considers are within the remit of the council and whose behaviour is characterised by:

- a) actions which are obsessive, unreasonable, harassing, prolific, repetitious and/or
- b) insistence upon unreasonably pursuing unmeritorious complaints and/or unrealistic outcomes, or
- c) insistence upon pursuing meritorious complaints in an unreasonable manner.

An unreasonably persistent complainant may exhibit one or more of the behaviours outlined in appendix one. The danger is that their complaint, even if meritorious, is treated without a significant degree of seriousness and consideration, which compounds their complaint and leads to criticism of the Council.

3. REQUEST FOR SERVICE DELIVERY

An unreasonable complainant is likely to start by being dissatisfied with the level of service delivery and persist in demanding levels of service from the service department. It is for the Head of Service to decide whether or not the service received has been reasonable. Any relevant guidelines or service standards or legislative requirements will be considered by the Head of Service.

If the Head of Service considers that further investigation is unjustified, consideration should be given to whether this Policy should be applied to that individual and the complainant should be warned that the Council will not necessarily respond to further service requests. If the complainant persists with requests for service then one of the options for action is to put the complaint through stage two of the Councils complaints procedure. Appendix two outlines considerations for determining if this Policy should be applied.

4. UNREASONABLE COMPLAINANTS & THE COMPLAINTS PROCEDURE

An unreasonable complainant may use the Complaints Procedure excessively either at a stage one or at a higher level. Appendix three outlines techniques for dealing with unreasonable complainants.

- 4.1 The first step either within service departments or centrally is to consider whether a dissatisfied complainant is raising legitimate concerns:
 - a) has the complaint been investigated properly?
 - b) was any decision reached the right one?
 - c) have communications with the complainant been satisfactory?
 - d) is the complainant now providing any significant new information that might affect the Council's view of the complaint.
- 4.2 If circumstances permit, before deciding to apply restrictions, the complainant should be offered a meeting with the appropriate Head of Service to explore scope for a resolution of the complaint and explain why their current behaviour as seen as unreasonable; or be given a warning that, if specified behaviour or actions continue, the authority may have to consider applying some or all of the actions set out in paragraph 6 of the policy and why. In urgent cases this may not be feasible.
- 4.3 If it is considered appropriate to instigate the Policy, the Head of Service in conjunction with the Complaints Officer, should prepare a report to GMT for consideration. GMT will take the decision to apply the Policy and approve the restrictions to be put in place. Appendix four provides a form for completion by the Head of Service and Complaints Officer.
- 4.3 If a decision is taken to apply this policy, the complainant will be informed in writing of the decision and what it means for their contacts with the authority, how long any restriction will last and what the complainant can do to have the decision reviewed. A copy of this policy should be sent with the letter.
- 4.4 The relevant officer dealing with the complaint, relevant Chief Officer, the Head of Service, the department administration team, the Complaints Officer, and GMT will all be kept informed of the restrictions in place for dealing with any unreasonable complainant.
- 4.5 Records of all contacts with unreasonable complainants should be kept.
- 4.6 Any decision to apply the policy, or to make an exception to the policy once it has been applied, should be properly recorded. Any decision not to apply the Policy when requested and the reasons should be properly reported.
- 4.7 When a decision has been taken not to carry on responding to correspondence, any further letters, faxes or e-mails from the complainant should be read to pick up any significant new information.
- 4.8 When unreasonable complainants make new complaints about new issues these should be treated on their merits and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

- 4.9 When imposing a restriction on access, a review date will be specified. Reviews of decisions to restrict a complainant's contact or the Authority's responses to them should be taken by the relevant Chief Officer. The complainant will be advised of the outcome of a review and the decision to either lift the limits, or the reasons why the limits will continue and when the next review will take place.
- 4.10 No decisions restricting the access of unreasonable complainants to staff or services should ever be taken lightly. In each case, the interests of the complainant need to be balanced against the effects which their behaviour or actions are having on staff, other service users and the efficient use of resources.
- 4.11 A report detailing those subject to the Unreasonable Complainants' Policy will be presented quarterly to GMT setting out the number of people who are subject to the Policy, the length of time they have been on the register and an outline of the reason for being on the register.

5. CLOSURE

If a complainant continues to express dissatisfaction with the Council's final response to a complaint:

- a) If further clarification of the outcome is ineffective, the complainant should be reminded of their right to refer the complaint to the Local Government Ombudsman. In addition the complainant should be reminded of the availability of independent legal advice. (In exceptional circumstances, i.e. where there may be nothing gained from following all stages of the Council's complaint procedure, the LGO may be prepared to consider complaints before the complaints procedures have been exhausted.)
- b) If the complainant continues to complain, the Council should repeat the advice in (a) above and add that the matter is now at an end and that the Council will not enter into any further communication unless it relates to a fresh complaint unrelated to the current complaint.
- c) If the complaints continue then the Council should send a response stating that there is nothing more that can be added to the Council's letter set out in (b) above.
- d) If contact continues, subject to being authorised by the relevant Chief Officer, the Council should decline to comment further.

Any correspondence received from the complainant should be monitored closely to ensure that it does not contain a new complaint or fresh, relevant information about a previous complaint that the complainant either knew or ought to have known about at the time of making that previous complaint.

If a fresh issue is raised that needs to be addressed it should first be referred to the senior officer dealing with the complaint to consider.

6. OPTIONS FOR ACTION

Any restrictions applied to a complainant should be appropriate and proportionate to the nature of their contacts with the Council at that time. The following list provides options for managing a complainant's involvement with the Council from which one or more might be chosen and applied, *if warranted*:

- a) placing time limits on telephone conversations and personal contacts
- b) restricting the number of telephone calls that will be taken (for example one call on one specified morning/afternoon of any week)
- c) limiting the complainant to one medium of contact (telephone, letter, e-mail etc)
- d) requiring the complainant to communicate only with a named member of staff
- e) if a complaint is currently going through the authority's complaints procedure, asking the complainant to enter into a written agreement about their future conduct if the complaint is to be progressed
- f) requiring any personal contacts to take place in the presence of a witness
- g) closing the investigation into a complaint
- h) providing the complainant with acknowledgements only of further letters, faxes, or e-mails received after a particular point
- i) banning a complainant from some or all of an authority's premises
- j) the threat or commencement of civil proceedings in the courts (for harassment, defamation etc)
- k) in cases where the authority believes the complainant has committed a criminal offence (for example, assault on staff or criminal damage), where assault is threatened, or where the complainant refuses repeated requests to leave the authority's premises, the involvement of the police.
- l) refusing to register and process further complaints about the same matter.

In deciding which options to apply, departments should be particularly careful to balance the rights of the individual with the needs of the Council. In particular, no decision to restrict access to the Complaints Procedure for more than 6 months should be taken without the approval of the Monitoring Officer or Chief Executive.

RECORDING, MONITORING AND REPORTING

A central register of those subject to the Unreasonable Complainants' Policy will be kept by the Complaints Officer. A report will be presented quarterly to GMT and annually to the GP and Audit Committee setting out the number of people to who are subject to the Policy, the length of time they have been on the register and an outline of the reason for being on the register.

LINKS TO OTHER POLICIES

This Policy should be used in conjunction with other Council policies and procedures aimed at protecting officers and the Council, for example the Harassment at Work Policy, Equal Opportunities, Staff Welfare, Employee Code of Conduct, disciplinary procedures, Freedom of Information, Data Protection, Complaints Policy and the health and safety at work procedures. Attention should also be paid to the Council's obligations under the Human Rights Act 1998 to ensure that it is within its right to take any action with regard to an unreasonable complainant.

EQUAL OPPORTUNITIES

In determining whether this Policy should be applied to an unreasonable complainant the Chief Officer must have due regard to the Council's duty under S149 of the Equalities Act 2010. The Council is committed to strive to ensure that people are offered equal opportunities regardless of age, race, religion or belief, disability, gender or sexual orientation and will take action to ensure that all forms of discrimination are eradicated from its policies and practices.

This Policy has undergone an Equality Impact Assessment, in order to help the Council to ensure that its policies, functions and services are fair and equitable to all sections of the community; that the Council takes into account their different needs and requirements and is proactive in its approach to promoting equality.

APPENDIX ONE

Examples of behaviour

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
- Attempting to use the complaints procedure to pursue a personal vendetta against a member or officer of the Council.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced by a senior officer or with a person named by the complainant.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
- Refusal to accept information provided, for no apparently good reason.
- Making statements the complainant knows are not true or persuading others to do so.
- Supplying manufactured `evidence` or other information the complainant knows/believes is incorrect.
- Lodging numbers of complaints in batches over a period of time, resulting in related complaints being in different stages of the complaints procedure.
- Demanding outcomes, which the complaint procedure cannot in itself provide (for example the overturning of decisions of the court, dismissal or criminal prosecution of staff, or actions which would be illegal or infringe the rights of others).
- Using obscene, racist, abusive, offensive, unreasonable or threatening language in written correspondence.
- Seek to coerce or intimidate staff, or abusing or distressing them by the language and tone of telephone communications.

- Threatening or aggressive or abusive behaviour in direct personal contacts with staff.
- Threatening, abusive or violent behaviour or actions directed at other people involved in the events which gave rise to the complaint.
- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the Ombudsman.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.
- Using the vehicle of valid new complaints to resurrect issues, which were included in previous complaints.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.
- Persistence in sending letters/faxes/emails which demand responses, or making telephone calls or seeking interviews with staff, long after the authority has closed the investigation into a complaint and all rights of review and appeal have been exhausted.
- Combinations of some or all of these.

APPENDIX TWO

Issues for consideration before applying the unreasonable complainant's policy:

The decision to designate someone as an unreasonable or unreasonably persistent complainant is onerous and could have serious consequences for the individual. Before deciding whether the policy should be applied authorities should be satisfied that:

- the complaint is being or has been investigated properly via the corporate complaints procedure/enquiries procedures. If the complainant asks the same question due to failure by the council to adequately answer the question this cannot be considered as an unreasonable complaint;
- any decision reached on it is the right one and all evidence placed on file will corroborate action taken via the unreasonable complainants policy, for example details of any abusive phone calls (or other Appendix One examples) All file notes should be comprehensive and objective containing date/time/telephone call/meeting/officer;
- communications with the complainant have been adequate; and
- the complainant is not now providing any significant new information that might affect the authority's view on the complaint.

Even if these points are satisfied consideration should be given to whether further action is necessary prior to taking the decision to designate the complainant as unreasonably persistent. Examples might be:

- If no meeting has taken place between the complainant and an officer/officers, and provided that the Council is not aware of anything about the complainant that would make this inadvisable, offering the complainant a meeting with an officer of appropriate seniority may be a consideration. Such meetings may dispel misunderstandings and move matters towards a resolution.
- If more than one department is being contacted by an unreasonable complainant, consideration may be given to:
 - setting up a strategy meeting to agree a cross-departmental approach; and
 - designating a key officer to co-ordinate the authority's response(s).
- If the complainant has special needs, an advocate might be helpful to both parties.
- Before applying any restrictions the complainant should be given a warning that if his/her actions continue the Council may decide to treat him/her as an unreasonable complainant, and an explanation why given.

APPENDIX THREE

Techniques for dealing with unreasonable complainants

- √ Communicate clearly and consistently. Do what you say you will do and if you are unable to do so, say so and explain why.
- √ Clarify the issues at an early stage.
- √ Consider calling an early strategy meeting as soon as a potentially unreasonable complainant situation is identified.
- √ Arrange regular meetings with any other officers directly involved with the potential unreasonable complainant to guarantee everyone directly effected is updated expeditiously
- √ Be mindful of the implications relating to Health and Safety at Work Act 1974, The Human Rights Act 1998, The Data Protection Act 1998 and the Freedom of Information Act 2000 and any other relevant enactments.

Operating the policy

If a decision is taken to apply the policy, write to inform the complainant that:

- the decision has been taken;
- what it means for his or her contacts with the authority;
- how long any restrictions will last; and
- what the complainant can do to have the decision reviewed.

Enclose with the letter a copy of the policy.

Keep adequate records of all contacts with unreasonable and unreasonably persistent complainants, for example:

- when a decision is taken not to apply the policy when a member of staff asks for this to be done, or 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 such a complainant through its complaints procedure for any reason; or
- when a decision is taken not to respond to further correspondence, make sure any further letters, faxes or emails from the complainant are checked to pick up any significant new information.

APPENDIX FOUR

FORM TO CONSIDER IMPLEMENTATION OF THE POLICY FOR DEALING WITH UNREASONABLE COMPLAINANT BEHAVIOUR

Section One (for completion by the Head of Service)

Name of complainant behaving unreasonably	
Complaint reference number	
Has the complaint been investigated properly?	
Was the decision reached the right one?	
Have communications with the complainant been satisfactory?	
Has any significant new information been provided that might affect the Council’s view of the complaint?	

Description of the unreasonable behaviour	
Details of action taken to resolve the unreasonable behaviour	
Suggested restrictions to be applied	
Timescale for restrictions to be applied	

Section Two (for completion by the Complaints Officer)

Complaint Stage (provide completion dates)	Stage 1	
	Stage 2	
	Ombudsman	
	HoS Meeting	
	Warning letter	
Consideration of the possible vulnerability of the unreasonable complainant (having due regard to Sec 149 of the Equalities Act 2010)		
Referred to GMT		

Section Three (for completion by GMT)

Decision	Approve application	
	Reject application	

Sanctions	Approve requested sanctions	
	Reject requested sanctions	

Additional Recommendations	
Review Date	
Review Officer	

Section Four (to be completed by Complaints Officer)

Date of GMT decision	
Complainant notified	

Review Decision	Close
	Continue (provide reasons)
Complainant notified	

Reported to GMT	
Reported to GP& Audit	