

POLICY ON DEALING WITH UNREASONABLY PERSISTENT, VEXATIOUS OR ABUSIVE COMPLAINANTS

1. INTRODUCTION

1.1 This policy supports the Council's formal Complaints Procedure which recognises that when mistakes happen or performance is not satisfactory, we need to know about it so that we can put it right and prevent it from happening again. It provides guidance to help staff identify where complainants may be considered unreasonably persistent, vexatious or abusive and suggests how they should be dealt with, ensuring a consistent approach.

1.2 The policy can also be shared with complainants if they start to behave unreasonably to assist in managing their expectations and their behaviour whilst the substance of their complaint is addressed.

1.3 In some cases, relations between councils and unreasonably persistent or vexatious complainants break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs, the Ombudsman may be prepared to consider a complaint before the procedure has run its course.

2. DEFINITIONS

2.1 The Local Government Ombudsman uses the following definition to identify complainants that are unreasonable and unreasonably persistent.

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

2.2 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. Some examples of unreasonable actions and behaviours include:

- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Refusing to co-operate with the complaint investigation process;
- Refusing to accept that issues are not within the scope of the complaints procedure or the power of the Council to investigate, change or influence;

- 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 he or she made at an earlier stage;
- Introducing trivial or irrelevant new information at a later stage;
- Raising numerous, detailed but unimportant questions - insisting they are all answered;
- Covertly recording meetings and conversations;
- Submitting falsified documents from themselves or others;
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of 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, expecting immediate responses;
- Submitting repeat complaints with minor additions/variations that the complainant insists make these 'new' complaints;
- Refusing to accept the decision – repeatedly arguing points with no new evidence;
- Harassing, intimidating or being verbally abusive by the use of foul, inappropriate, offensive or racist language.

3. HOW TO DEAL WITH UNREASONABLY PERSISTENT OR VEXATIOUS COMPLAINANTS

3.1 The decision to treat complainants as unreasonably persistent and/or vexatious will be taken by a member of the Management team and in doing so they should be satisfied that:

- The complaint is being or has been investigated properly;
- Any decision reached on the complaint 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 organisation's view on the complaint.

3.2 Where it is necessary to designate the complainant as behaving unreasonably, some of the 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 the 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-departmental approach;
- Designating a key officer to co-ordinate the organisation's response;
- Helping the complainant to find a suitable independent advocate especially if the complainant has different needs.

3.3 The action taken should be proportionate to the nature and frequency of the complainant's current contacts, their behaviour and the circumstances. 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 distraction. Options include:

- 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;
- Refusing access to any council building except by appointment;
- Reporting extreme behaviour that threatens the immediate safety and welfare of staff to the police.

3.4 Where a decision on the complaint has been made, the complainant will be informed that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. The Corporate Feedback Co-ordinator will read future correspondence.

4. RECORD KEEPING

4.1 Where such action is taken, the Corporate Feedback Co-ordinator will write to the complainant with a copy of the policy to explain why the decision has been taken, what it means for future contacts, how long any restrictions will last and what the complainant can do to have the decision reviewed. All correspondence will be held on the Council's Customer Relationship Management system (CRM) and some or all of this information may be obtained by the complainant via a Data Subject Access request or under the Freedom of Information entitlements.

4.2 When imposing a restriction on access, a review date should be specified and restrictions will be lifted and relationships returned to normal unless there are good grounds to extend the restrictions. The complainant should be informed of the outcome of the review and if restrictions are to continue, the reasons should be provided along with the next review date.

5. DEALING WITH NEW COMPLAINTS FROM A PERSISTENT COMPLAINANT

5.1 When complaints about new issues are made, these should be treated on their merits, and the Corporate Feedback Co-ordinator will consider whether any restrictions previously applied are still appropriate and necessary.

6. REVIEWING ANY RESTRICTIONS ON PERSISTENT COMPLAINANTS

6.1 Complainants have the right to challenge the decision on any restrictions to be applied under this policy and requests for review must be made within 10 working days of the initial notification being sent. Such requests should be made to the Senior Solicitor, who will review the case to determine whether the decision to invoke the policy was correctly taken and/or whether any particular restrictions applied are justified.

6.2 The Senior Solicitor will aim to complete the review within two months and on completing the review, will write to advise the complainant of the outcome and, if restrictions are to continue to be applied, the date that they will next be reviewed.

Version 1.0
May 2014