

APPENDIX 2

POLICY ON UNREASONABLE AND UNREASONABLY PERSISTENT COMPLAINANTS

The council is committed to dealing with all complaints in an open, fair and proportionate manner.

Key corporate policies such as the Customer Access Strategy and the Customer Care Standards confirm this commitment and define what our customers can expect of the council when making a complaint about council services.

For the minority of complainants who behave in an unreasonable manner when pursuing a complaint this policy is designed as a guide to staff to confirm what is expected of them, what options are available and who can authorise such actions. Similarly the policy can be used to assist unreasonable complainants in managing their expectations and behaviour with the intention of allowing the council to focus efforts on addressing the substance of the complaint.

Definition of unreasonable complainant behaviour

The council defines unreasonable and unreasonably persistent complainants as:

Those complainants who, because of the nature and/or frequency of their contacts with the council, hinder the council's consideration of their, or other customers, complaints.

The key consideration is the reasonableness of the complainants' behaviour and/or frequency of contacts made with the council.

Examples of unreasonable complaint behaviour:

- Refusal to accept assistance in specifying the grounds of complaint
- Refusal to cooperate with the council's corporate or statutory complaint processes

- Refusal to accept that certain issues are not within the scope of the council's complaint procedure
- Insisting on the complaint being dealt with in a manner which is incompatible with the approved procedure or recommended best practice
- Making unjustified complaints about the particular officer dealing with the issues raised and/or seeking to have them replaced
- Changing the basis of the complaint as the investigation proceeds
- Denying or changing statements made earlier in the investigation
- Introducing irrelevant or trivial information at a later stage of the complaint
- Raising numerous, detailed and unimportant questions, insisting an response is provided for each
- Covertly recording meetings and recordings
- Submitting falsified documents

- Adopting a 'scatter gun' approach by pursuing parallel complaints on the same issue with a variety of council officers across different contact channels
- Making excessive demands on staff time / resource with frequent lengthy contacts via phone / email / in person or letter and expecting immediate responses
- Submitting repeat complaints with minor additions/variations to the original complaint already responded to
- Refusal to accept complaint decisions, outside of the corporate or statutory escalation process/arguing points with no new evidence

Responding to unreasonable complaint behaviour

The following process should be followed when considering an application of this policy, with particular reference to on-going complaints:

1. A review of the complaint investigation so far to confirm it has been dealt with in accordance with the relevant corporate or statutory process (staff guidance is available on the intranet and for the public on the council website). Specifically has the complaint been dealt with in an open, fair and proportionate manner?
2. Careful consideration should then be given as to whether the complainant has clearly acted in an unreasonable or unreasonably persistent manner, using the definition and examples provided above as a guide.

3. The head of the relevant service concerned should be informed and concur with the assessment of unreasonable behaviour in line with the policy.
4. As a first course of action, once the unreasonable behaviour has been identified and this view supported by the relevant head of service, the complainant should be informed of this decision. This should include the following:
 - Why the council has decided their behaviour is unreasonable
 - What the council considers reasonable behaviour when submitting a complaint
 - The opportunity for the complainant to desist from the identified unreasonable behaviour and pursue the complaint in a reasonable manner, in line with the standard corporate or statutory process
 - What potential actions may be taken and the duration of any proposed action (see below) if the unreasonable behaviour continues
 - The rights to appeal to such action being taken (see below)
5. Before invoking any potential actions the following should also be considered / offered to the complainant if relevant:

- A meeting with an appropriate officer to explore scope for resolution and explain why their behaviour has been deemed unreasonable
 - Where more than one service has been complained about the option to agree a cross-service/departmental approach
 - Assigning a key officer to coordinate the council's response
 - Assisting the complainant in finding a suitable independent advocate if required
6. If the unreasonable behaviour persists then the suggested actions may be implemented immediately and the complainant informed of such:
- Why the decision has been taken
 - Actions to be implemented
 - Duration of any restrictions
 - Rights of appeal
7. For complaints that have already been considered through all of the relevant corporate or statutory processes the most appropriate option will be to recommend referral to the Local Government

Ombudsman (LGO) for which details can be found on the council's website.

Options for action

Any actions proposed should be proportionate to the nature and frequency of the complainant's current contacts. The focus of any action taken is to manage the identified unreasonable behaviour in order to respond to the complaint more effectively.

Suggested actions include the following:

- Requesting any future contacts regarding the complaint to be in a specific format (e.g. by letter)
- Requesting any future contact regarding the complaint be made with any identified officer only
- Placing limits on the number and / or duration of contacts made
- Offering a restricted time slot for necessary contacts
- Requiring the complainant to meet in the presence of a witness if personal contact appropriate
- Asking for the complainant to enter into an agreement about the acceptable behaviour for future contacts
- For complaints that have already been fully considered, the refusal to register and process further complaints about the same matter unless significant new information is provided

Rights of appeal

Under this policy the complainant has the right of appeal to a Chief Officer of an alternative department, similar to the system operated for 3rd stage corporate complaints (see relevant intranet / internet guidance).

Duration of restrictions imposed

As detailed above, any restriction imposed on future contacts made by the complainant in relation to the on-going complaint should be for a specified duration, either for the time taken to investigate the complaint in question or after an identified period for review.

If reviewed, restrictions should be lifted and standard complaint handling processes re-adopted unless there are good grounds to extend the restrictions.

Any new complaints submitted from customers whose behaviour has previously been identified as unreasonable should be considered entirely on their individual merits.

Subsequent unreasonable behaviour

Where a complainant continues to behave in an unreasonable manner the option remains to terminate all active contact and discontinue investigation into the complaint.

In these circumstances it should be noted that the LGO will consider complaints that have not exhausted the council's corporate or statutory process if both the council and the complainant agree that this is the best course of action.

Where the behaviour is viewed as so extreme that it threatens the immediate safety and welfare of council staff, other options should be considered such as reporting the matter to the police or for the council taking legal action. In such cases the council may not give the complainant prior warning of that course of action.