

# Unreasonable Complainant Behaviour Policy

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## 1. Introduction

- 1.1. The Council is committed to dealing with all customers fairly and impartially and to provide high quality service at all times. This includes those who wish to complain, offer comments or provide us with feedback.
- 1.2. The Council delivers a wide range of public services. We welcome all kinds of feedback about our services, but we also recognise that a very small number of people can act in a way that is inappropriately challenging.
- 1.3. Normally, people who wish to complain are allowed full access to the Council and all of its services as required. However, there are a small number of complainants who, because of their behaviour and the manner in which they approach officers in the Council in relation to their complaint, may need to have their contact restricted. They may behave unacceptably or be unreasonably persistent in their contact. This can impede investigating their complaint(s) and can have significant resource implications. These actions can occur either while the complaint is being investigated, or once the Council has finished the complaint investigation.
- 1.4. This guidance sets out the Council's approach to dealing with unreasonable behaviour from residents who wish to complain. This guidance should assist staff in determining what is unacceptable and unreasonable complaint behaviour and proposes options for how to manage this behaviour consistently. A policy that can be shared with complainants if they start to behave unreasonable can help in managing their expectations and their behaviour, while the substance of their complaint is addressed.
- 1.5. The policy covers 'unreasonable complaint behaviour' which may include one or more isolated incidents, as well as 'unreasonably persistent behaviour', which is usually a build-up of incidents or behaviour over a longer period. The policy follows the guidance published by the Local Government & Social Care Ombudsman on [Guidance note on management of unreasonable complainant behaviour](#).
- 1.6. It is important to identify between people who make a number of complaints because they really think things have gone wrong, and people who are unreasonably persistent in making their complaints.
- 1.7. This policy supports the Council's Complaints Procedures:
  - Corporate
  - Children's social care
  - Adult social care
- 1.8. It is crucial that the Council and staff do not discriminate against any complainant and ensures that this procedure is not used to restrict customers

from accessing the complaints process who are not displaying unreasonable complaint behaviour. Vigilance and appropriate management of the process is essential. No one person should make a decision to invoke the process. Managers should routinely monitor use of the process and ensure that complainants are still receiving an acceptable service.

- 1.9. It is entirely possible that customers will continue to have ongoing contact and receive services while this process is applied to them. This is appropriate and the purpose of the guidance is to manage contact. It also sets out how the corporate monitoring, oversight and coordination of all actions taken under the policy shall be undertaken. This will include a review process to evaluate complainants the policy is applied to and allow for this to be lifted or continued dependent on agreed factors.
- 1.10. If staff have any concerns regarding personal safety of staff (including their own) then staff should refer to the separate guidance - The Unreasonable Customer Behaviour Policy which can be used in conjunction with this policy.

## **2. Aims**

- 2.1. While implementing this policy the Council's aims remain to:
  - Deal fairly, respectfully and consistently with all members of the public that contact the Council. This includes customers whose behaviour during or after making a complaint is considered unreasonable;
  - Provide accessible services for all customers. However, we retain the right to manage a person's contact with our services where we conclude that their behaviour in relation to their complaint is unreasonable; and
  - Support staff to be able to manage unreasonable complaint behaviour and to ensure that people who act in an unreasonable manner do not impact the physical or mental well-being of staff, other customers or themselves;
  - Consider the Councils' responsibility to meet individual service needs for complainants who are vulnerable or disabled. Particular care needs to be taken for those with hidden disabilities that could impact on how they interact with Council officers such as mental health, Autism, or Tourette's. Where possible efforts should be made to provide alternative options or non-direct contact channels such as voicemail or email. This should follow the guidance set down in the SSA Equalities Policy, with reference to the guidance for Reasonable Adjustments for Service Users and Data Protection Policy.

## **3. What is Unreasonable Complainant behaviour?**

- 3.1. **Unreasonable and persistent demands upon staff**
- 3.2. Repeated instances of contact are likely to be the most common occurrence of unreasonable behaviour. These occur where people cannot or will not accept a decision (or the explanation or position offered) by the Council to them. Such customers will persistently complain or contact staff, either to

overturn an existing, final, decision or to attempt to have a level of service increased.

3.3. In most instances when we consider someone's behaviour is unreasonable we will explain why and ask them to change it. We will also advise them, if the behaviour continues, we may take action to restrict their contact with the council and our staff. Single incidents may be unacceptable but continuous unreasonable behaviour will usually be found when the complainant shows the following behaviour over time:

- 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.
- Submitting frequent 'new' complaints whilst current complaints are being investigated, or alternative concurrent processes are underway, placing disproportionate pressure on services and the Complaints Team and obstructing the ability to deliver effective services.
- 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 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.

3.4. **Aggressive or abusive behaviour**

3.5. Instances where complainants display aggressive or abusive behaviour that would be considered excessive. This includes language (oral or written) or behaviour that may cause staff to feel threatened or abused.

3.6. Examples are likely to include (but not limited to):

- A threat directed at any Council Staff, the Council itself or any other person present at the time of the contact.
  - Aggressive or threatening manner, which continues after the customer has been asked to change their behaviour or attitude.
  - Swearing, although swearing on its own will not usually make for unreasonable contact - many people swear as part of their day to day conversation. Swearing should only be considered unreasonable if it is abusive, threatening or unnecessarily persistent or vulgar.
  - Verbal abuse.
  - Racist, sexist, or homophobic language.
  - Derogatory remarks.
  - Offensive language.
  - Making inflammatory statements and
  - Raising unsubstantiated allegations.
- 3.7. The Council has a zero-tolerance policy towards threatening or prejudicial behaviour towards any member of staff. Whilst we accept that those in contact with us may feel angry, it is not considered acceptable when that anger manifests aggression directed to staff or other customers.
- 3.8. When experiencing such behaviour, staff are obliged to raise this with their managers, record it and alert other staff and Human Resources as appropriate. Consideration be given by managers to reporting matters to the police.
- 3.9. **Other considerations**
- 3.10. Complainants displaying unreasonably behaviour may genuinely believe that the Council has failed to meet their needs or deal with their issues. Some complainants have historical grievances for which they continue to hold the Council responsible. Additionally:
- It is not unreasonable for customers to raise legitimate queries or criticisms regarding the Councils' response to their complaints;
  - Where unreasonable behaviour does occur this does not automatically mean that the customer cannot make a complaint, nor that their complaint is invalid (i.e. it is possible that a person with unreasonable behaviour will make a complaint and that complaint will be upheld);
  - Customer conduct must be put in context (i.e. is a customer's behaviour drawn from reasonable distress to a loss or wrong that they have experienced);
  - The customer's circumstances must also be taken into account. Staff should consider and take into account health issues (including mental health concerns), language/comprehension difficulties or services that they may be receiving as these may impact on their behaviour; and
  - Care must be taken when classifying behaviour as aggressive or abusive. This should not include general rudeness or raised voices.

- Where there is evidence of Mental Health or learning disability issues advice on potential support and appropriate pathways should be sought from the Mental Health and Substance Misuse Social Care Team.

#### **4. Reporting and gathering evidence**

- 4.1. Instances where a complainant has displayed unreasonable behaviour should reported to the responsible manager for that service area and the Complaints Team. The Complaints Team will be responsible for maintaining a central log for the purposes of monitoring, oversight and coordination of actions taken under the policy.
- 4.2. Evidence of the unreasonable complaint behaviour is necessary, and it is important to note that the policy will not be invoked if there is insufficient evidence to support the Councils' actions.
- 4.3. Evidence such as a contact logs, file notes, emails, social media, screen shots, visits etc. can be used to demonstrate the unreasonable complaint behaviour on the part of the complainant. They should be logged in one place.
- 4.4. For example:
  - If the complainant has used inappropriate language in an email or letter, retain a copy of the email or letter;
  - If the complainant has been abusive during a phone call to Call Centre staff, retain a copy of the recording;
  - If a complainant has been abusive during a phone call which has not been recorded, then the officer or councillor involved should make a written record of the phone call.

#### **5. Invoking the Policy**

- 5.1. Any officer in the Council can request that a complainants' behaviour is considered through this procedure. In the first instance they should raise this with their line manager and Head of Service and then with the Complaints Team.
- 5.2. The Complaints Manager will discuss the issues with staff/their manager/Head of Service.
- 5.3. Consultation with other services may be required if they have also raised concerns about this complainant. A decision will then be made as to whether this requires escalating the matter to senior management, along with recommendations for managing contact with the complainant going forward.
- 5.4. Each case will then be considered on an individual basis a decision to invoke this policy will be made by the Complaints Manager in conjunction with the

Assistant Director and or Director of the relevant service area. In this way an essential check is made, and no unilateral decisions can be made.

- 5.5. The application of such restrictions will be reviewed on a 6 monthly basis by panel of senior managers to review cases, make any recommendations to ensure consistency, strategic oversight and appropriate application of the policy. The Panel will include the Monitoring Officer from each council and will also receive legal input.
- 5.6. A decision to invoke this policy must be made on the basis of documented evidence that demonstrates that a complainant's unreasonable behaviour has taken place. This information may be subject to an information request (FOI or SAR) reinforcing the importance of robust and accurate records management.
- 5.7. Good judgement and discretion must be used in applying the criteria to identify a potential unreasonable complainant and in deciding what action to be taken in specific cases.
- 5.8. It must also be noted that although the decision might be made to apply the policy to a complainant demonstrating unacceptable behaviour to a specific area of the council's business, their dealings with other services – for example social care - might be deemed acceptable. In these circumstances, a blanket application of the policy might not be appropriate.

## **6. Warnings**

- 6.1. In most instances before any action is taken under this policy we will explain to the complainant in writing what aspects of their behaviour has given cause for concern and ask them to change it. The complainant will be warned that if the behaviour persists, their case may be considered under the Unreasonable Complaint Behaviour Policy. A copy of the Unreasonable Complaint Behaviour Policy will be included with the warning letter. Template letters will be made available to managers.
- 6.2. Where the behaviour is so extreme that it threatens the immediate safety and welfare of an employee we will report the matter to the police and/or consider taking legal action. In such cases, we may not issue a warning letter.
- 6.3. The Council will only restrict communication with the complainant if they have informed them that their behaviour is unreasonable and have asked them to modify their behaviour (excepting cases covered in 6.2). The Council will explain what action will be taken if the warning is ignored. If they do not modify their behaviour, the Council will take steps to restrict communications with the complainant. The Council can use a number of options, and these are set out in the next section of this policy.



## **7. Options for imposing restrictions**

7.1. If the Complaints Manager in conjunction with the Assistant Director/Director decides a restriction is appropriate. The level of restriction that the Council apply will be proportionate, taking into account the nature, extent and impact of the customers behaviour on Council staff and other customers.

7.2. Actions which may be considered to restrict access and contact include:

- Requiring the complainant to communicate only with one named member of staff.
- 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 form of contact (telephone, letter, email etc.).
- Reserving the right to accept new formal complaints if the frequency of new complaints being raised is disproportionate and impacting on the ability to effectively deliver services. in such instances alternative ways of responding to concerns outside of the complaints process will be offered.
- restricting telephone calls to a dedicated complaints line with a dedicated voicemail. This will be monitored by the Complaints Team and any contact will be actioned as appropriate
- 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
- advising the complainant that a designated member of staff will read all future correspondence and place it on file but not acknowledged, unless it contains relevant new information.
- reserving the right to respond to individual issues that may arise, depending on the presenting issue (i.e. there is no contradiction in advising a customer that they should not expect a response to each inquiry then selecting individual points to respond to);
- reminding the complainant of their right to approach the LGSCO or HO if they remain dissatisfied.
- Inform the customer that, in appropriate circumstances, the council reserves the right to pass reports of serious unreasonable behaviour and threats of physical violence to the police.

## **8. Notifying and recording the decision**

8.1. If the Council decides to impose a restriction, the Complaints Manager in conjunction with the Assistant Director/Director will make this decision. The Complaints Manager will write to the complainant with a copy of the policy to explain:

- why the decision has been taken
- what action the council is taking

- the duration of the action
  - the review process of the policy
  - inform the complainant how they can seek to appeal the decision if they disagree with it and the process for doing so.
- 8.2. The decision to restrict or stop a complainant's access to the council's offices and officers may only be taken by the Complaints Manager in conjunction with the relevant Assistant Director/Director. All complainants have the right of appeal. Appeals must be made in writing to the Complaints Manager, setting out the reasons they feel the decision to restrict access should not be actioned. The decision of the Complaints Manager will be final and where relevant advise the complainant of their right to refer the matter to the Local Government & Social Care Ombudsman for them to investigate.
- 8.3. The Complaints Team will ensure that service restrictions are logged centrally and that other service areas that have direct contact with this customer are also informed of any restrictions if relevant to their service area.
- 8.4. The Complaint Team will note the decision and place copies of this, and any letters sent to the complainant in a central file, to be retained for future reference.
- 8.5. The file record will also include a date of the decision to categorise the complainant as unreasonable, when the status will be reviewed and when it is due to end. This will normally be a period of between 3 and 6 months although the exact date will depend on the nature of the incident. Please note that unreasonable status may be reviewed, and a person placed back on the register if there is sufficient justification and it is deemed necessary to do.
- 8.6. The service area will be responsible for ensuring that any member of their staff distressed by an incident are supported and the services of the Staff Counselling Service or any other support service made available.

## **9. New complaints from complainants with restrictions**

- 9.1. Any complaints about new issues from complainants with restrictions under this policy will be considered on their own merits. The Complaints Manager will review all new correspondence and decide whether the new complaint is justified.

## **10. Right of Appeal**

- 10.1. When a letter is sent to a complainant advising them of a restriction imposed on them, the letter will include information about the customer's right of appeal against the decision.
- 10.2. All appeals must be made in writing, either via email or letter.

- 10.3. If the complainant decides to appeal the Council's decision, the appeal will be reviewed by the Complaints Manager in conjunction with the relevant Director of the Assistant Director who made the original decision.
- 10.4. The result of the appeal which is final will be communicated to the complainant in writing.

## **11. Withdrawing the unreasonable status**

- 11.1. Once complainants have been determined as unreasonable, there needs to be a mechanism for withdrawing this status at a later date. Reasons for this might, for example, be where complainant has subsequently demonstrate a more reasonable approach.
- 11.2. Staff who have recommended the unreasonable behaviour status at the outset should similarly recommend that this status be withdrawn when appropriate.
- 11.3. The Complaints Team will also have recorded the date for a review of the status of any complainant categorised as unreasonable and will highlight the case for regular review by the Complaints Manager, as well as the Assistant Director and Service that imposed the restriction as necessary. They will take a final decision and subject to approval, normal contact with the complainant will resume.

## **12. Referring complaints to the Local Government & Social Care Ombudsman**

- 12.1. Relations between the council and complainants sometimes 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. The Complaints Manager may approach the Local Government & Social Care Ombudsman to establish whether they will consider a complaint before complaints procedures have been finished. A complainant also has the right to approach the LGSCO if they are not happy with how the Council has managed and applied 'unreasonable complainant status'.

## **13. Record keeping and sharing information**

- 13.1. The Complaints Team will keep a record of all complainants who have had this policy applied to them. All correspondence including all incoming and outgoing letters and emails will be recorded on in a central location. The information retained will include:

- The name and address of each complainant who is treated as unreasonable.
- When the restriction came into force and when it ends.
- What the restrictions are.
- When the complainants, Council's departments and any other services were advised of the restrictions.

13.2. Records will also need to include:

- When a decision is taken not to apply the policy when a member of staff asks for this to be done.
- When a decision is taken to make an exception to the policy once it has been applied.
- When a decision is taken not to put a further complaint from this complainant through the Council's complaints procedure for any reason.
- When a decision is taken not to respond to further correspondence, make sure any further letters or emails from the complainant are checked to pick up any relevant new information.