



# Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour Policy

**Version:** Dec 2015 review

**Review Date:** April 2019

**Owner:** Performance and Community Manager

## 1. Introduction

The council recognises that we will receive a number of complaints and is committed to dealing with all complaints and service requests fairly and impartially and to providing everyone with a high quality service. As part of this service we do not normally limit the contact customers have with our offices.

The council is accountable for the proper use of public money and must ensure that money is spent wisely and achieves value for the wider public.

There are a small number of complainants who, because of the frequency and nature of their contact with the council, unreasonably impact on our resources such that we are hindered in the delivery of services to others. We refer to such complainants as 'unreasonably persistent complainants' and exceptionally, we may take action to limit their contact with our offices.

## 2. Definition

For the purpose of this policy the following definitions will be used:

- **“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 and request for service.”**
- **“The repeated and/or obsessive pursuit of unreasonable complaints and campaigns and/or unrealistic outcomes, and/or reasonable complaints and campaigns pursued in an unreasonable manner.”**

## 3. Purpose

Having a policy and guidance for staff on unreasonably persistent complainants and unreasonable complainant behaviour should help us to deal with complainants in a way that is consistent and fair. It also supports staff to:

- understand what is expected of them,
- what options for action are available and who can authorise these actions,
- identify and reduce the potential problems from unreasonable and unreasonably persistent complainants.
- provide a yardstick against which performance can be assessed for monitoring purposes.

## 4. Options for action

Where complaints have been identified as unreasonably persistent in accordance with the criteria set out in Schedule A, the Director of Community Services, following discussions with the relevant Director/Heads of Service will take a report to the Corporate Management Team (CMT) to seek agreement to treat the complainant as an unreasonably persistent complainant and to agree an appropriate course of action to be taken using the options in Schedule B as a guide.

Prior to taking action and determining whether the Policy should be applied the council should be satisfied that:-

- the original 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 authority's view on the complaint.

Should the Corporate Management Team have any concerns whether the policy should be applied they may wish to consider the option of referring the matter for the views of the council's Scrutiny Committee. It is recognised that terminating or restricting communications with citizens is not a step to be taken without very careful consideration.

**No use of this policy shall commence without the authorisation of the Corporate Management Team.**

The Director of Community Services will notify complainants, in writing of the reasons why their complaint has been treated as unreasonably persistent and the action that will be taken. Notification should include:-

- Comprehensive details and description of the decision that has been taken;
- What it means for his or her contacts with the authority;
- How long any restrictions will last;
- What the complainant can do to have the decision reviewed;
- Access to a copy of this policy.

Heads of Service will need to inform and seek advice from the Director of Community Services regarding potential unreasonably persistent complaints, which have not progressed onto stage two of the complaints process and as such fall outside the control (and therefore knowledge) of the Customer Care Officer.

Once a complainant has been determined to be unreasonably persistent, their status will be kept under review and monitored by the Director of Community Services with reports being taken to the Corporate Management Team as required. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.

**5. Links to other duties, policies and procedures**

The council has a Health and Safety protocol for dealing with Violence & Abuse at Work. It is recognised that there are certain aspects relevant to this policy which should be referenced where there is a risk of threatened or actual physical violence towards employees, particularly in reference to **Schedule A**.

**Complaints and Freedom of Information/Environmental Information Regulations/Data Protection**

Statutory rights to information do limit the authority's ability to apply the above principles. All members of the public have a right to request information as determined and described in the relevant legislation. The council must respond to such requests unless exemptions apply or the request can be demonstrably identified as "repeated" and "vexatious" as described in the legislation. It is only when a response has been given to a particular information request that the principles of this policy may be then applied.

The council must respond to all requests for information within the terms described in the relevant legislation but this policy may be applied if the subsequent response meets the above definition.

The Information Commissioner has developed a guide for those who work in the public sector and deal with Freedom of Information, Section 14 of the guidance deals with vexatious and repeated requests: <https://ico.org.uk/for-organisations/guide-to-freedom-of-information/refusing-a-request/>

It is recognised that the role of Elected Members and other elected officials (MP's, MEP's) place a duty on them to pursue matters on behalf of their constituents and others. Nothing in this policy is intended to constrain the role of such elected persons in relations to such duties and responsibilities.

## **Schedule A – Criteria for Determining Unreasonably Persistent Complainants**

**(No use of this policy shall commence without the authorisation of the council's Corporate Management Team).**

Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent where previous or current contact with them shows that they meet any or a combination of the following criteria:

- Persist in pursuing a complaint where the council's complaints process has been fully and properly implemented and exhausted.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.
- Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. (Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints.)
- Are repeatedly unwilling to accept documented evidence given as being factual, or deny receipt of an adequate response in spite of correspondence specifically answering their questions, or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the council to help them specify their concerns, and/or where the concerns identified are not within the remit of the council to investigate.
- Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what a 'trivial matter' is can be subjective and careful judgement will need to be used in applying this criteria.
- 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.
- Have threatened or used physical violence towards employees at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. The council has determined that any complainant who threatens or uses actual physical violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of

this in writing together with notification of how future contact with the council is to be made.

- Have, in the course of addressing a registered complaint, had an excessive number of contacts with the council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter or email. Judgement will be used to determine excessive contact taking into account the specific circumstances of each individual case.
- Have harassed or been verbally abusive on more than one occasion towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this.
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- Make unreasonable demands on the council and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently or in a way that is not compatible with the council's complaints procedure.
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
- 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.

## Schedule B – Options for Dealing with Unreasonably Persistent Complainants

**(No use of this policy shall commence without the authorisation of the council's Corporate Management Team).**

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.

- A letter to the complainant setting out responsibilities for the parties involved if the council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
- Decline contact with the complainant, either in person or by telephone, letter, e-mail or any combination of these, provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this person.
- Notify the complainant, in writing, that the council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as an unreasonably persistent complainant and as such the council does not intend to engage in further correspondence dealing with the complaint.
- Inform the complainant that in extreme circumstances the council will seek legal advice on unreasonably persistent complaints.
- Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered unreasonably persistent, while seeking advice or guidance from its solicitor or other relevant agencies, such as the Local Government Ombudsman, Information Commissioner or External Auditor.
- Once the appropriate internal procedures have been exhausted and the council's reasonable approach has been established in accordance with this policy, there should be little problem should the complainant choose to escalate the matter for external determination (either the Ombudsman or the Information Commissioner). Indeed the escalation may, in some instances, be the most effective means of resolving and/or preventing protracted debate.
- Referring to unreasonable and unreasonably persistent complainants the Local Government Ombudsmen states (*extracted from the Local Government Ombudsman's "Guidance Note on unreasonably persistent complainant and unreasonable complainant behaviour" - January 2007*)
- "In some cases, relations between authorities and unreasonable and unreasonably persistent complainants break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory

outcome. In such circumstances there is often little purpose in following through all stages of the council's complaints procedure and where this occurs the Ombudsman may be prepared to consider complaints before complaints procedures have been exhausted. This is the case even in respect of statutory complaints procedures.

- A complainant who has been designated an unreasonably persistent complainant may make a complaint to the Ombudsman about the way in which he or she has been treated. The Ombudsman is unlikely to be critical of the council's action if it can show that its policy has been operated properly and fairly".