

1. Introduction

- 1.1 The Council recognises that whilst efforts are made to provide a consistently high level of service for all service users, there are occasions when dissatisfaction will arise and complaints will be made.
- 1.2 The Council has developed a formal complaints procedure through which dissatisfaction with services can be expressed. The complaints procedure is designed to ensure that mutually satisfactory resolutions are reached in a timely fashion.
- 1.3 The Council is committed to providing a consistent and equitable service to all its customers. This policy is designed to provide guidance for officers and Members regarding appropriate procedures for dealing with unreasonable or unreasonably persistent complainants which are demonstrably consistent and fair.
- 1.4 In the majority of cases, investigating complaints is a straight forward process. The council recognises that customers will exert pressure on the Council when making a complaint, as they believe that the Council has failed in its service to them. Such pressure may be persistent, but in most cases this is reasonable and acceptable.
- 1.5 However, a small minority of complainants may pursue their complaints in ways that can impede the investigation of their complaint, or impose a significant and disproportionate resource requirement on the authority. Such actions can occur during the investigation of their complaint, or once the investigations have been completed. In these cases a complainant can reasonably be defined as unreasonably persistent.
- 1.6 It should be noted that complaints pursued by unreasonable and or unreasonably persistent complainants may be justified, but inappropriately pursued. It is also possible that they are pursuing complaints without merit, or those which have already been investigated and determined.
- 1.7 The Council does not normally seek to limit the contact complainants may make with officers or Members. However, as the Local Government Ombudsman identifies in their guidance for Local Authorities, a small minority of complainants may be considered to exhibit "unreasonable complainant behaviour" or to be "unreasonably persistent complainants".

- 1.8 This policy outlines the procedure for identifying such complainants, suggested actions which may be taken and the ways in which decisions will be taken and reviewed. It can apply to any individual, particular group or organisation whether they receive a specific service from the Council or not.
- 1.9 The aim of this policy is to ensure that unreasonable or unreasonably persistent complainants are dealt with fairly, honestly and properly, whilst protecting other service users, officers, Members and the Council against any detriment.
- 1.10 The Council has a zero tolerance approach to abusive and aggressive behaviour and does not expect its officers or members to tolerate such behaviour. The Council understands that the circumstances under which complaints are made may be frustrating for the complainant, but requests that complainants remain calm and work with the Council to ensure that complaints can be quickly and satisfactorily resolved.
- 1.11 The Council recognises that a part of the role as Members and other elected officials (MPs, Parish Councillors etc) is to pursue matters on behalf of constituents. This policy is not intended to constrain or inhibit this role.

2. Identifying unreasonable actions and or behaviours.

- 2.1 The Council defines unreasonably persistent and abusive complainants as those who, by the frequency or the nature of their contacts with the Council, hinder the Council's consideration of their or other people's complaints. Contact from such complainants may be amicable, but place disproportionate demands on Council resources, or they may be distressing for all involved. Contacts may relate to justified complaints, those with no substance, or those that have been already investigated and completed. The descriptions "unreasonably persistent" and "unreasonable" may apply separately or jointly to a particular complainant.
- 2.2 The Council recognises that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. However, this does not imply that continued unreasonable behaviour will be tolerated.
- 2.3 Unreasonable behaviour may occur during one or two isolated incidents, where as unreasonably persistent behaviour would usually be an accumulation of incidents or behaviour over a period of time. Raising a number of legitimate queries and concerns via the Council's complaint procedure is not a just reason for designating an individual as an unreasonably persistent complainant. Similarly if a complainant expresses

dissatisfaction with the outcome of the investigation of a complaint and seeks to challenge it, this should not necessarily lead to labelling them as an unreasonably persistent complainant. Such instances should be progressed through the established complaints procedure.

- 2.4 The list in Appendix A, largely taken from the Local Government Ombudsman guidance document identifies behaviours which may be indicative of unreasonably persistent or abusive complainants. This list is not intended to be exhaustive, nor is the presence of any of these actions in isolation to be used for the application of this policy. It is merely intended to act as a guide to assist in the identification of unreasonable or unreasonably persistent behaviour.

3 Application of the Policy

- 3.1 Prior to the application of this policy, the Council must be satisfied that

- that the complaint is being or has been investigated properly according to the complaints procedure.
- that any decisions reached thus far are the right ones.
- be satisfied that communications with the complainant has been adequate.
- the complainant is not now providing any significant new information that might affect the Council's view on the complaint.

- 3.2 Additionally Service Leads and Corporate Management team should ensure

- that appropriate steps have been taken to discuss the complainant's behaviour with the complainant, explain why their behaviour is considered unacceptable and that the complainant has been asked to modify the way in which they approach officers or Members.
- That the complainant has been sent a written warning stating their failure to modify their behaviour may result in restrictions being applied to the Council under this policy. A copy of this policy should be included for their reference.
- If considered appropriate, to have offered to assist the complainant in finding an independent advocate.

- 3.3 If employees or Members are concerned about the behaviour of a specific complainant, who they believe is behaving in an unreasonable or persistent manner they should report their concerns to their Service Lead or the appropriate Director of Service. If the employee has immediate concerns with regard to a complainant who has been verbally or physically abusive, they should follow the guidance set out in the Violence and Aggression at

Work Policy and report such incidents to their Line manager and the Council's Health & Safety Adviser. Such reports will be taken into account by the Service Lead or Director of Service when considering whether this policy should be implemented.

- 3.4 The Service Lead will discuss with their Director of Service or The Director of Service will discuss with the Chief Executive and confirm why such behaviour is causing concern, giving clear documented evidence to support this and outlining how the behaviour needs to change.
- 3.5 Any decision as to the application of the policy is an exceptional decision and must be made by a Director of Service or the Chief Executive in consultation with the Leader of the Council. Full consideration will be given to the following before it can be appropriately applied:
- Whether the complaint is raising legitimate concerns.
 - Whether the complaint is being, or has been investigated properly.
 - Whether any decisions reached thus far were the correct ones.
 - Whether communications with the complainant have been adequate.
 - Whether the complainant is now providing any significant new information that might affect the Council's view on the complaint.
 - Whether any circumstances relating to the complainant's mental health, age, gender, sexual orientation or disability has been considered.
 - Whether possible steps have been taken to inform the complainant that their behaviour is unacceptable.
 - How to strike the right balance between rights of the individual complainant and the need to ensure that other complainants and our staff and Members suffer no detriment, and the Council's resources are used as effectively as possible.
 - The appropriate restrictions to apply.

4 Examples of restrictions/actions.

- 4.1 Before any actions are taken to restrict contact, the complainant will, wherever possible, be warned. Where behaviour is of such an extreme nature that the immediate safety of welfare of staff or Members is threatened, options outside of this policy will be considered i.e. Violence and Aggression at Work Policy and prior warning that such action will be taken will not necessarily be given.
- 4.2 The appropriate actions to be taken will depend on the stage the complaint has reached in the complaints process. If the complaint has been completed,

and referred to the Ombudsman if appropriate, then the authority has the option of ending all communication with the correspondent. In these instances, correspondence must still be monitored and filed to ensure that no new information is supplied. It is a matter of managerial discretion whether correspondence should continue to be acknowledged.

- 4.3 If however, the complaint is still under investigation, some channels of communication must remain open. However it should be noted that whilst the Ombudsman would usually require a complaint to have exhausted the local complaints procedure before investigation they also recognise that:

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.

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.

- 4.4 The list in Appendix B seeks to provide guidance with regard to the restrictions which may be considered when dealing with an unreasonably persistent or abusive complainant. The particular circumstances of the case will determine which actions are appropriate. The decision makers may use actions from the list or may if the circumstances require, introduce other restrictions. It is essential that any restrictions that are applied are appropriate and proportional to the nature and to the frequency of the complainants unreasonable or unreasonably persistent contacts and that a review process, as outlined in section 5 is put in place.

5. Appeal and Review Process

- 5.1** Once a decision has been reached the Chief Executive or Director of Service will write to the complainant, clearly outlining the reasons for which they have been designated Unreasonable or an Unreasonably Persistent Complainant, explaining the restrictions which will be applied to future contacts regarding their complaint, the period of time for which these

restrictions apply and the appropriate appeals/review process. A copy of the policy will be included for the complainant's reference.

- 5.2 If the complainant disagrees with the classification under this policy or with the particular restrictions which have been applied, they will have the right to appeal against the decision. They will be provided with the contact details in which to appeal and this should be done within 20 working days. If they do this, only arguments that relate to the restriction and not to the actual complaint or issue will be considered.
- 5.3 All appeals will be re- examined by the Chief Executive or a Director of Service (which ever was not originally involved) and a decision made in consultation with the Leader of the Council.
- 5.4 The Chief Executive or Director of Service will notify the complainant in writing of the result of the appeal and will clearly state whether the initial restrictions will be applied, whether different course of action has been agreed or whether the decision to apply the policy has been overturned.
- 5.5 Any applications of the policy must be reviewed after no more than 6 months. The review should consider whether the complainant has adhered to the restrictions imposed and whether the complaint is still under investigation.
- 5.6 If the review determines that the restrictions should be lifted, the complainant should be notified in writing and warned that any repeat of the previous unacceptable or unreasonable behaviour will result in reapplication of the restrictions. If limits are to continue the complainant will be notified in writing of the reasons for this and the date of the next review.
- 5.7 Any new complaints for unreasonable or unreasonably persistent complainants should be treated on their own merits. However, if the complainant engages in unreasonably persistent or abusive behaviour with regards to their new complaint urgent consideration should be given to the application of appropriate restrictions.

6. Communication to Officers/Members

- 6.1 It is not recommended that details of the individual cases be widely distributed. Details of the complaint and restrictions should be circulated to:
 - Management Team.
 - The Leader of the Council.
 - Customer Services Manager.

- The appropriate Service Lead and Team Member(s).
- The appropriate local Member(s) in whose ward the complaint resides, or to whose ward the complaint applies.

6.2 Details of the complaint should not be circulated beyond those listed above but the names of persistent complainants, together with instructions regarding the appropriate actions which should be taken if contacted by the complainant may be circulated to all staff and members likely to come in contact with the complainant.

7 Support for Officer/Members

- 7.1 It is recognised that when dealing with unreasonable or unreasonably persistent complainants, members of staff may from time to time, be subjected to abusive or aggressive contacts from members of the public. The Council does not expect its employees to tolerate being subjected to this type of behaviour and will fully support its staff in the event they are placed in that position. Any member of staff who is subjected to verbal abuse, such as swearing, shouting or belittling should initially inform the customer of their unacceptable behaviour. In the event that such behaviour continues, employees are empowered by the Council to terminate the conversation immediately and report the incident to their line manager who should then refer the matter to the appropriate service lead.
- 7.2 Subsequent to any incident the Line manager will discuss the incident with the employee involved. The incident should be reviewed as to how the incident arose and to identify any change of practice or staff preparedness for such situations
- 7.3 In no circumstances should incidents of verbal or physical abuse be interpreted as an indication that employees are unable to discharge their duties effectively. Employees need to know that their concerns are taken seriously and they will not be made to feel foolish or inadequate if they resort to the use of alarms or call for help in situations that prove to be false alarms. However employees are expected to adhere to advice contained within the Violence and Aggression at work policy and reasons for not doing so will be examined at incident review.
- 7.4 Where there is an identified need for additional training or counselling for staff who have received unreasonable or unreasonably persistent contact from complainants the Council will ensure that is provided in consultation with the employee concerned.

8.0 Links to other policies

8.1 This policy is designed to compliment and or reflect the existing policies:

- Customer Comments, Compliments and Complaints.
- Health & Safety at Work.
- Dignity at Work.
- Violence and Aggression at Work.
- Working Alone in Safety.

8.2 The policy is not designed to cover Freedom of Information, Environmental Information Regulations or Data Protection requests. All members of the public have statutory rights to information as determined and described in the relevant legislation. Councils must respond to such requests except under the circumstances outlined in the relevant legislation.

9.0 Recording actions and contacts with the individual, particular group or organisation

9.1 Any decision to apply this procedure must be notified to the Customer Services Manager and recorded on the complaints database.

9.2 Any future contacts with the complainant must be recorded.

9.3 If a member of staff or Member has asked for application of this procedure and the decision is made not to apply it the reasons must be recorded and member of staff or member informed of the decision. Any decision not to apply this procedure does not exclude any future requests being made if new evidence comes to light.

9.4 The Customer Services Manager will keep a record of all individuals who have had this procedure as a result of a complaint. Decisions taken under this procedure are subject to Data Protection principles and the Human Rights Act. Any records will be destroyed after 6 years.

10.0 Policy monitoring and review

10.1 Six monthly reports will be provided to Management Team and Regulatory & Support Services Committee as part of the complaints reporting process. The report will include

- The number of times the policy has been invoked and the restrictions imposed.

- The number of times a decision has been taken not to classify an individual, particular group or organisation as unreasonable or unreasonably persistent
- Lessons learnt from all instances

It will not include details of individual complaints or information by which the complainant could be identified.

- 10.2 It is anticipated that this policy should be reviewed after 6 months and thereafter on an annual basis.

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Appendix A – Identifying characteristics of unreasonable or unreasonably persistent behaviour

The following are some of the actions and behaviours which officers and Members often find problematic. 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 the proper handling of the issues raised.

- Refusal to identify specific grounds for a complaint, despite offers of assistance from the Council's staff.
- Refusal to co-operate with the complaints investigation process whilst still wishing for their complaint to be resolved.
- Refusal to accept the difficulty of verifying events and facts after a significant period of time has passed.
- Refusal to accept information provided without good reasons why the information should be refused.
- Attempting to use the complaints procedure in order to pursue a personal vendetta against an employee, team or Member.
- Making repeated groundless complaints about an officers handling of their complaint.
- Lodging numbers of complaints in batches over a period of time resulting in related complaints being at different stages of the complaints procedure.
- Refusal to accept that the issues about which they are complaining are not within the scope of the complaints procedure despite having been provided with the information regarding the procedures scope.
- Demanding outcomes that the complaints procedure is unable to provide, e.g. overturning court decisions, dismissal or criminal prosecution of staff and Members, actions that would be illegal or infringe the rights of others.
- Insisting on the complaint being dealt with in ways that are incompatible with the adopted complaints procedure or good practice.
- Changing the basis for the complaint as the investigation proceeds and or denying statements made at an earlier stage.
- Adopting a "scatter gun" approach by pursuing the same complaint with multiple authorities/bodies at the same time, for example with the authority and at the same time with an MP, a Member, the independent auditor, the standards board, the police, solicitors, the ombudsman.
- Using valid new complaints to resurrect issues which were included in previous complaints.
- Submitting repeated complaints, after the complaints processes have been completed, essentially about the same issues, with additions/variations which

the complainant insists make these new complaints which would be subject to the full complaints procedure.

- Raising at a late stage in the process, significant information which was in the complainant's possession when he or she first submitted the complaint and which the complainant knew to be of relevance to the case.
- 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 fully answered.
- Repeated denials of receipt of adequate responses in spite of records of correspondence specifically addressing their questions.
- Making unreasonable demands on Council resources and failing to accept that these may be unreasonable. For example, insistence on responses to complaints or enquiries being provided more urgently than is reasonable.
- Persistent contact via multiple channels demanding responses or meetings with officers when the complaints procedure has been fully and properly implemented and exhausted.
- Making unnecessarily excessive demands on the time and resources of staff whilst the complaint is being looked into by, making excessive or lengthy phone calls emails, telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses, so as to cause an oppressive burden on the authority.
- Making statements that they know are not true, or persuading other to do so.
- Supplying "manufactured" evidence or other information that the complainant knows is incorrect.
- Electronically recording meetings telephone calls and conversations without the prior knowledge and consent of the person involved.
- Using obscene, racist, homophobic, sexist, ageist, gender or sexually related, religion or belief based offensive or threatening language in personal contacts or telephone conversations.
- Seeking to coerce or intimidate staff or Members or abusing them or distressing them by the language and tone of voice or behaviour, including body language, in personal contacts or telephone conversations
- Threatening, aggressive or abusive behaviour in direct personal contacts with staff.
- Threatening, abusive or violent behaviour and actions directed at other people involved in the events that gave rise to the complaint.
- Repeated refusals to accept the final outcome of the complaints procedure and further complaints about the outcome.

- Repeatedly pressing for further investigation of matters that have already been addressed.
- Making numerous, repetitious and unreasonable contact because the complainant is unable or unwilling to accept or agree with a policy decision or approach which has been adopted by the Council or individual services and functions.
- Deliberately attempting to cause annoyance to the authority, Council member or employee of the authority.

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Appendix B – Potential Restrictions

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken in terms of a number and time period e.g. one call one morning per week.
- Limiting the access channels by which the complainant may contact the council.
- Requiring the complainant to communicate only with the designated member of staff.
- Requiring an independent witness to any personal contacts.
- Asking the complainant to enter into a written agreement regarding their future conduct whilst a complaint is being processed.
- Banning a complainant from entering the Council's premises.
- Involving the police where a complainant is suspected of having committed a criminal offence e.g. harassment, assault (actual or threatened).
- Refusal to register or process any further complaints on the same matter.
- If the complainant has exhausted the complaints process and a decision has been made, tell the complainant that future correspondence will be read and placed on file but not acknowledged unless it contains new information. (A designated officer should be identified who will read all future correspondence)