

Unreasonably Persistent Complainants Policy

Version 2.0

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Section 1 - Introduction And Overview

1. The Council values feedback from all customers. If customers are not happy with the service provided, they are able to contact us and ask for their concerns to be looked into. Where appropriate, learning will be identified and service improvements actioned to stop issues from happening again.
 - 1.1. The Council aims to deliver excellent service to customers. This includes dealing with all complaints fairly, thoroughly, and within a timely manner.
 - 1.2. The Council follows a formal complaints process in line with good practice set by the Local Government Ombudsman (LGO). This is a two stage internal process. If the customer remains dissatisfied, they can refer their complaint to the LGO.
 - 1.3. The vast majority of complaints are resolved through the Council's internal process or through independent investigation by the LGO; however, there are a small number of customers who, because of the frequency and nature of their contact with the Council, hinder the investigation and consideration of both their complaint and that of other customers. These customers are referred to as *unreasonably persistent complainants*.

Section 2 - Aim And Purpose Of Policy

- 2.1 This policy aims to make sure that complainants classified as unreasonably persistent complainants receive fair treatment, whilst also ensuring that there is no negative impact on the Council's staff, Members and services.
- 2.2 This policy makes clear what our responsibilities are, what options for action are available to them, and who is in a position to approve any such actions.

Section 3 - What Is An Unreasonably Persistent Complainant?

3.1 The LGO uses the following definition to identify those complainants who fall into the category of unreasonably persistent:

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

3.2 Unreasonable or unreasonably persistent complainants may have justified complaints, but are pursuing them in an inappropriate manner. Alternatively, they may be intent on pursuing a complaint, which has no substance, or has already been investigated and responded to by the Council through the correct channels.

3.3 We understand that many customers are angry with the issues they have raised within their complaint. If that anger escalates into aggression towards the Council staff, we consider that unacceptable. Any violence or abuse towards staff will not be accepted. Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether verbal or written) that may cause staff to feel offended, afraid, threatened or abused.

We will judge each situation individually and appreciate individuals who come to us may be upset.

The following are some behaviours of unreasonable and/or unreasonably persistent complainants. This list is based on guidance published by the LGO and is by no means exhaustive.

- Refusal to specify the grounds of their complaint, despite clear communication from Council officers that this is required in order to allow for investigation and consideration.
- Refusal to co-operate with the Council's internal complaints process while still wishing for their complaint to be resolved.
- Refusal to accept that some issues can fall outside of the remit of the complaints process, despite this being explained to them.
- Changing aspects of their complaint or their desired outcome during the investigation period.
- Withdrawing a complaint when the customer realises their complaint is not likely to help them achieve their desired outcome, then pursuing their complaint through a different channel.
- Pursuing their complaint through various different Council services - and possibly other external bodies - in order to confuse the matters they are complaining about and help them to achieve their desired outcome, even if it is not considered reasonable to do so.
- The customer behaves aggressively and shows little or no respect for Council staff when corresponding with the Council. Language, which is designed to:
 - insult or degrade,
 - is racist,
 - sexist or homophobic; or
 - which makes serious allegations that individuals have committed criminal, corrupt or perverse conduct without any evidence is unacceptable.

We may decide that comments aimed not at us but at third parties are unacceptable because of the effect that listening or reading them may have on our staff.

- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being investigated and responded to. This can often lead to delays in responding to complaints within a reasonable timescale.
- Submitting complaints, which have already been considered through the Council's internal process and have been passed to the LGO.
- Refusing to accept the decision taken by the Council and the LGO in respect of their complaint.

3.4 The Information Commissioner has also issued guidance on what would be considered unreasonably persistent and/or classed as repeated requests. It is very much a balancing exercise, where the circumstances and history of each complaint must be taken into account. To assist local authorities when considering such matters, the following are questions to be considered:

- Could the request fairly be seen as obsessive?
- Is the request harassing the authority or causing distress to staff?
- Would complying with the request impose a significant burden on the authority?
- Is it likely that the request is designed to cause disruption?
- Does the request lack any serious or proper value/merit?

3.5 To judge whether a request is unreasonably persistent, it should be possible to make a relatively strong argument under more than one of the questions under para. 3.4.

Section 4 - How Do We Assess If Someone Is Unreasonably Persistent?

4.1 The Council has a formal complaints process. The steps are as follows:

- Stage 1 - It requires the Manager of the service to which the complaint relates to investigate the concerns raised by the complainant and to send a formal, written response.
- Stage 2 - If the customer is not happy with the stage 1 response, they can request that it is escalated to stage 2 of the process. Stage 2 involves a full investigation by the Council's Customer Relations Team. Once this is complete, the Customer Relations Team will draft a written response on behalf of the Chief Executive, and send it out to the complainant.

If there is strong evidence to suggest that all of the complainant's concerns have been addressed adequately at stage 1 of the complaints process, and there would be no merit in investigating the concerns further, the Customer Relations Team may decline to investigate at stage 2.

The Customer Relations Team will assess a complaint before escalating it to stage 2. They will look at the stage 1 complaint, whether the response addresses all of the concerns raised and whether the customer following the stage 1 response has raised any new concerns.

- LGO - If the complainant remains unhappy with both the stage 1 and 2 responses, they can escalate their complaint to the LGO. The LGO will assess the complaint - considering the Council's internal responses - and decide whether there is any merit in investigating. If so, they will liaise with both the Council and complainant, and make recommendations to the Council where appropriate.

4.2 During the course of investigating a complaint, the service area concerned or the Customer Relations Team may consider that the complainant is displaying one or more of the characteristics outlined in para. 3.3 of this policy.

4.3 If it is apparent that the complainant is frequently displaying one or more of these characteristics, the relevant Head of Service and Customer Relations Team will liaise to discuss whether the complainant should be considered unreasonably persistent under this policy.

4.4 The officers involved must first consider the position with the complaint: that is, whether the investigations into the complaint are ongoing or if they have been concluded. This is important, as it will determine whether contact with the complainant needs to be maintained. For example, if the investigations are finished and the complainant refuses to accept the decision but persists with the complaint, then a decision may be taken to terminate contact about the complaint. However if the complaint investigation is still ongoing, contact will need to be maintained with the complainant. In these circumstances, it might be more appropriate to limit contact to one officer.

4.5 The following are some of the questions, which the Head of Service and Customer Relations Team, will consider when determining whether a complainant should be classified as unreasonably persistent:

- that the complaint is being, or has been, investigated properly;
- any decision reached on the complaint is the correct one;
- communications with the complainant have been adequate; and
- that the complainant is not now providing any significant new information that might affect the organisation's view on the complaint.

- 4.7 Following consideration, the officers will then decide on any appropriate action. The following are some of the potential options recommended by the LGO if the complaint is still outstanding:
- Placing limits on the number and duration of contact with staff per week/month.
 - Offering a restricted time slot for necessary calls.
 - Limiting the complainant to one type of contact i.e. email.
 - Requiring the complainant to communicate with only one member of staff.
 - Requiring any 'face to face' meetings to take place in the presence of a witness and in a suitable location.

Where a complaint has been resolved, and the officers are satisfied that all of the issues raised have been adequately addressed, then a decision may be taken to stop all contact with the complainant on the matter. However, whilst contact will be stopped on the subject of the complaint, if the complainant were to contact the Council on a separate matter, contact should be managed as normal.

- 4.8 If there are enough grounds to recommend that the complainant should be classified as unreasonably persistent, the Customer Relations Team will liaise with the Council's Chief Executive Officer (CEO) to provide an update on what has been happening. It is then the decision of the CEO whether to make the complainant unreasonably persistent.

Section 5 - How Do We Tell The Complainant What Happens Next?

- 5.1 If the Chief Executive Officer agrees, the complainant will be informed of what action will be taken.
- 5.2 A letter will be sent to the complainant informing them that the Council has come to a decision that they are being unreasonably persistent in respect of their complaint. This letter will be signed by the Chief Executive Officer.
- 5.3 The letter should make the following points clear to the complainant:
- The matter, which they are considered to be unreasonably persistent about.
 - The action, which the Council is proposing to take in respect of this behaviour.
 - Make the customer aware of any restrictions in contact the Council will be imposing on the matter. When doing this, it should also make clear that these restrictions would apply to contact regarding the complaint: not all contact.
 - Make the complainant aware that the Council's records will be updated to reflect that they have been demonstrating unreasonably persistent behaviour in respect of their complaint.
 - Make the complainant aware of the period for which they will be kept on the List.
- 5.4 The Council's records will reflect that the complainant has been unreasonably persistent for an initial period of six months. After which, a review will be conducted by the Customer Relations Team to find out if there has been any contact relating to the complaint from the complainant. This will determine what, if any, action is taken next. Further details relating to the review period can be found in section 7 of this policy.
- 5.5 The Head of Service, from where the complaint originated, the Customer Relations Team and the Borough Solicitor should agree on the content of the letter. Once agreed, it should be passed to be reviewed by the Chief Executive Officer and sent out.

Section 6 - Who Is Responsible For Keeping Records About Those Who Are Assessed As Being Unreasonably Persistent And Who Is Responsible For Keeping Them Up To Date?

- 6.1 When a complainant has been classified as unreasonably persistent, the Council must keep all copies of evidence in support of the decision.
- 6.2 The Council's Customer Relations Team are responsible for updating and monitoring the records held in relation to Unreasonably Persistent Complainants. These records include the following information:
- why the complainant has been added to the list;
 - when they were added;
 - who was involved in the decision making and who approved this decision;
 - dates for the next review for the complainant.
- 6.3 Once the complainant has been informed, Customer Relations will maintain and update a record of any correspondence from them.
- 6.4 There is a review period of six months for each complainant added to the list. This will be six months from the date the complainant was added. The LGO recommend the reviews, to make sure that the complainants are not being classified as unreasonably persistent unnecessarily.
- 6.5 At the time of the review, Customer Relations should liaise with the Head of Service and Borough Solicitor to determine whether there has been any contact from the complainant
- in respect of their complaint in the six-month period. If there has been no further contact in this period, then the complainant should be removed from the list.
- If the complainant has continued to contact us about their complaint, then officers will need to consider the nature and frequency of the contact, and whether the restrictions in contact should continue.
- 6.6 Any decision taken - whether to take the complainant off the list or to extend the period for which they will be kept on - must be reported to the Chief Executive. Officers will present a proposal to the Chief Executive Officer for consideration and decision.
- 6.7 Provided the Chief Executive Officer is in agreement with the proposal, a letter will then need to be sent to the complainant making them aware of the decision. This will be drafted by Customer Relations on behalf of the Chief Executive Officer. This should inform the customer of:
- the decision being made;
 - the reasoning to support this decision; and
 - if they will be remaining on the Unreasonably Persistent Complainants List, when their position will next be reviewed.
- 6.8 Once the letter has been sent, Customer Relations will update their records with details of the latest contact with the complainant and keep copies of any documents, which support the review decision. They will then need to update the Unreasonably Persistent Complainants List to confirm the date of the latest review and the date the complainant will next be reviewed.

Section 7 - Referring Unreasonably Persistent Complainants To The Local Government Ombudsman

- 7.1 In some cases, relations between authorities and persistent complainants break down. Sometimes this is 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 process. Where this occurs, the Ombudsman may be prepared to consider complaints before the complaints process has been exhausted.
- 7.2 A complainant who has been identified as unreasonably persistent 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 applied properly and fairly.

Section 8 - Further Information

- 8.1 The policy will be monitored and amended in line with best practice in both public and private sectors.
- 8.2 Any queries regarding this policy should be directed to the Council's Customer Relations Team using the following contact information:

Tel.: **(0118) 974 6000**

E-mail: **CustomerRelations@wokingham.gov.uk**