



# **Corporate Complaints and Complaints about Councillors**

## **Policy for dealing with Unreasonable Complainant Behaviour and Unreasonably Persistent Complainants**

## Document Control

<b>Title:</b>	Policy for dealing with Unreasonable Complainant Behaviour and Unreasonably Persistent Complainants
<b>Version:</b>	2
<b>Document owner</b>	Monitoring Officer
<b>Document location</b>	Council Website
<b>Full document review period</b>	12 monthly
<b>Document distribution</b>	Staff and Councillors
<b>Document approval</b>	Audit and Standards Committee
<b>Date of approval of this version</b>	13 November 2023

## **1. Introduction**

- 1.1 The Council respects and protects the rights of citizens to complain about service delivery and to complain about the conduct of councillors, provided they behave reasonably, and they do not use these rights to hinder or divert our staff resources in a manner that has a detrimental impact on the services to other citizens, or which compromises our duty of care as an employer towards our staff.
- 1.2 Generally, dealing with a complaint is a straightforward process, but occasionally people do pursue complaints in an unreasonable way. Sometimes their behaviour is unacceptable or otherwise they might unreasonably persist in their contacts and submission of information. It can also impede the investigation of the complaint.
- 1.3 If a citizen makes unreasonable demands on our time and resources, we will take proportionate action to protect the wellbeing of our staff and the integrity of our processes. Where necessary, we reserve the right to take action to restrict communications with our officers when unreasonable behaviour of this nature persists.
- 1.4 Restricting access to communications with Council officers is not taken lightly and, in all cases, we will carefully consider whether the circumstances justify any restriction of access. If action is justified, we will state how long any restriction will remain in place before it is reconsidered.
- 1.5 This Policy aims to help citizens using the corporate complaints procedure and the councillor complaints procedure to understand what is expected of them, what options for action are available, and who can authorise these actions. This Policy can also be shared with a citizen if they start to behave unreasonably, in order to manage their expectations and their behaviour whilst their matters are being addressed.

## **2. Definitions**

- 2.1 Unreasonable Behaviour and Unreasonably Persistent Behaviour is conduct which, because of the nature, tone or frequency of their contact, hinders our ability to consider their complaint, or otherwise compromises our duty to protect staff. Unreasonable Behaviour may consist of one or two isolated incidents, whereas Unreasonably Persistent Behaviour usually builds-up over a longer period.
- 2.2 Some complainants may have justified complaints but pursue them in inappropriate ways. Others may pursue complaints that have no substance, or which have already been investigated. Their contacts with us may be amicable but still place heavy demands on staff time, or they might be emotionally charged and distressing for all involved.
- 2.3 Situations may escalate, and a complainant's behaviour may become abusive, offensive, threatening or otherwise unacceptable. In response we may have to restrict communications in accordance with our procedures for protecting them from harassment and harm.

### **3. Examples of Unreasonable Behaviour**

- Refusing to specify the grounds for a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process whilst still wishing their complaint to be resolved.
- Refusing to accept that certain issues are not within the scope of the procedure despite having been provided with information about the procedure's scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the complaint's procedure or with good practice.
- Making what appear to be groundless 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 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 them or others.
- Inappropriately or unreasonably 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 complaints and insisting that these are 'new' complaints.
- Refusing to accept the decision by repeatedly arguing points with no new evidence.

### **4. Considerations Prior to Applying the Policy**

- 4.1 If consideration of the complaint has ended under stage 2 there is the option of ending all communication on the issue and referring the complainant to the Ombudsman.
- 4.2 If the complaint is still being considered under stages 1 or 2, officers should remember that a decision to designate someone's behaviour as unreasonable and to restrict access (see section 5) is exceptional and likely to have consequences for the individual in terms of their usual rights.
- 4.3 In order to make an application under section 5 an officer must be satisfied that the complaint is being or has been investigated properly, any decision reached is the right one, communications with the complainant have been adequate, and the complainant is not providing significant new information that might affect your view of the complaint.

- 4.4 As an alternative to applying under section 5, officers should consider one or more of the following steps:
- Offer the complainant a meeting with an officer of appropriate seniority to explore scope for a resolution of the complaint and to explain why their behaviour is seen as unreasonable.
  - Share this Policy with the complainant and alert them to the fact that restrictive actions may need to be applied if their behaviour continues.
  - Set up a strategy meeting to agree a cross-departmental approach.
  - Appoint a key officer to coordinate the organisation's responses.
  - Help the complainant to find a suitable independent advocate, especially if they have particular needs.

## **5. Decisions and Actions - Designated Officers**

- 5.1 Decisions about whether to apply this Policy to an individual, any actions or limitations to be placed on contacts with that person, the duration of restrictions applied, and any subsequent review of the decision may only be taken by the Chief Executive, a Deputy Chief Executive or the Monitoring Officer (The Designated Officers).
- 5.2 Only an officer who is nominated to respond to the complaint under stages 1 or 2 of the complaints procedure may apply for a decision to be made to apply the Policy to an individual. In a case where the applicant is also a Designated Officer, he/she shall ensure that another Designated Officer makes the decision.
- 5.3 Prior to making a decision the Designated Officer will consult with the local ward member, or in the event of a conflict of interest another ward member nominated by the local ward member.
- 5.4 In making a decision to apply the Policy to an individual the Designated Officer will also consider what information is to be given to that person and who else is to be informed. Any actions taken should be proportionate to the nature and frequency of the complainant's current contacts.
- 5.5 Restrictions on contact will also take into account the complainant's behaviour and the wider circumstances of the case. The aim is to manage the complainant's unreasonable behaviour in such a way that their complaint can be concluded quickly and without further distractions. Options include:
- Placing limits on the number, duration and frequency of contacts with staff.
  - Offering a restricted time slot for necessary calls.
  - Limiting the complainant to one type of contact (telephone, letter, email etc).
  - Requiring the complainant to communicate with only one named officer.
  - Requiring contacts to take place in the presence of a witness.
  - Refusing to process further complaints about the same matter.

- 5.6 In applying the Policy to an individual, it might also be appropriate to inform the complainant that future correspondence will be read and placed on the file but not acknowledged, unless it contains relevant new information.

## **6. Implementing Decisions and Actions**

- 6.1 If a decision is taken to restrict communication the Designated Officer will write to the complainant with a copy of the Policy to explain why the decision has been taken, what it means for their contacts with the Council and how long any limits will last before the decision is reviewed.
- 6.2 A central record will be maintained by the Nominated Officers of every application made under section 5 and the outcome, including decisions not to apply the Policy to the individual or to make an exception to the policy.
- 6.3 In a case where the policy is invoked, the Monitoring Officer will report the matter to the next meeting of the Audit and Standards Committee.
- 6.4 If complaints about new issues are made by the individual, these should be treated on their merits, at which point it may be necessary to consider whether any restrictions previously applied are still appropriate and necessary.

## **7. Reviewing Decisions to Restrict Contact**

- 7.1 When imposing a restriction on access, the Designated Officer will specify a review date. Restrictions should be lifted, and relationships returned to normal unless there are good reasons to extend them. The Designated Officer will write to the complainant to confirm the outcome of the review, and if limits are continued, explain the reasons and state when the limits will next be reviewed.

## **8. Involvement of the Ombudsman**

- 8.1 Relations between the Council and complainants sometimes break down while complaints are under investigation and there is little prospect of achieving a satisfactory outcome.
- 8.2 In these circumstances there may be nothing to gain from following through both stages of the Council's complaints procedure. In these circumstances, the Local Government and Social Care Ombudsman may be prepared to consider complaints before complaints procedures have been exhausted.
- 8.3 A complainant who has been treated as behaving unreasonably may make a complaint about that decision to the Ombudsman. The Ombudsman is unlikely to be critical if the Council can show that it acted proportionately and in accordance with its adopted policy.

## **9. Links to Other Organisational Policies**

- 9.1 This Policy is to be read in conjunction with the Council's Corporate Complaints Procedure and the Councillor Complaints Procedure, which can be accessed via the Council's website.

It also has links to the Council's Occupational Health and Safety Procedures, which are accessible via the Intranet.

## **10. Ownership and Review of this Policy**

- 10.1 The Monitoring Officer is nominated to oversee the Council's Corporate Complaints Procedure, the Councillor Complaints Procedure and this Policy. They will keep both documents under review and report to the Audit and Standards Committee if changes are required. The Committee will also review the Policy after its first 12 months of its introduction or subsequent amendments.