

1. Unreasonably persistent complaints policy

We welcome feedback from service users and will always try to resolve complaints as quickly as possible.

The majority of complaints are dealt with through the complaints procedures without difficulty, however, complainants may be pursuing complaints in unreasonable ways. The Unreasonably Persistent Complaints Policy should only be applied where absolutely necessary and describes how the Council may deal with complaints effectively where the complainant is unreasonably persistent in pursuing complaints or otherwise acts unreasonably.

An Unreasonably Persistent Complaints Policy helps staff and complainants to understand clearly what is expected of them, what options for action are available, and who can authorise these actions. It also assists staff to manage the expectations and behaviour of complainants while their complaint is addressed.

This policy should be read in conjunction with any other relevant Council policies relating to exclusion of services and employee health and safety.

2. Objectives

Most complaints are dealt with through the complaints procedures without difficulty.

Having a policy on how to deal with unreasonably persistent complainants or other unreasonable behaviour by complainants, together with guidance for staff on the complaints procedure, should help the Council deal with complainants in ways which are demonstrably consistent and fair.

The policy covers behaviour which is unreasonable, which may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually an accumulation of incidents or behaviour over a longer period.

The objectives of the policy are to:

- Ensure all staff understand the objectives and requirements of the Unreasonably Persistent Complaints Policy
- Promote problem solving and to avoid apportioning blame. The emphasis should be on finding a solution
- Satisfy those who complain or comment that they have been dealt with promptly, fairly, openly and honestly
- Resolve complaints quickly and as close to the point of service delivery as acceptable and appropriate
- To protect staff from abusive and unacceptable behaviour from customers
- Protect employees from unreasonable, aggressive or violent behaviour by complainants

3. Definition of unreasonably persistent complaints and unreasonable behaviour

Unreasonably persistent complainants are those complainants who, because of the frequency, or nature, of their contacts with the Council, hinder the Council's consideration of the complainant's, or other people's complaints.

Almost all complainants see themselves as pursuing justified complaints.

Unreasonably persistent complainants may have legitimate complaints but be pursuing them in inappropriate ways, or they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. Their contacts with the Council may be very emotionally charged and distressing for all involved, or they may be agreeable but still place very heavy demands on staff time.

Sometimes the situation between the Council and a complainant can escalate and the behaviour moves to behaviour which is unacceptable and unreasonable, for example, abusive, offensive or threatening behaviour. Such complainants are in a very small minority, but sometimes the Council finds itself in the position of having to instigate action under this policy.

In extreme situations, the Council may resort to involving the Police or taking legal action to address such behaviour.

Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as an unreasonably persistent complainant.

Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause them to be considered unreasonably persistent /vexatious.

These are some of the actions and behaviours of unreasonably persistent complainants which the Council often find problematic. It is by no means an exhaustive list, but they are examples that frequently come to our attention:

- Refusing to specify the grounds of a complaint, despite offers of assistance
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- Refusing to accept that certain issues are not within the scope of a complaints procedure
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or within good practice
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced
- Changing the basis of the complaint as the investigation proceeds and/or denying statements they have made at an earlier stage. At the same time, we acknowledge that a complainant has a right to challenge our recollection/recording and to clarify how this could be resolved before we categorise the complainant's behaviour as denying the matter
- Introducing new information, at a late stage, 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
- Covertly recording meetings and conversations
- Submitting falsified documents from themselves or others
- Bringing complaints designed to cause disruption or annoyance or lacking any serious purpose or value
- Adopting a 'scattergun' approach: pursuing parallel complaints on the same issue with the Council and/or other organisations

- Making excessive demands on the time and resources of staff and members with lengthy and/or repeated telephone calls, emails to numerous Council officers, or detailed letters every few days and expecting immediate responses
- Behaviour that appears to be deliberately targeted over a significant period of time at one or more members of Council staff, without good cause
- Submitting repeat complaints, with minor additions/variations, so the complainant insists they are 'new' complaints which should be put through the full complaints procedure
- Refusing to accept the outcome decision of a complaint – repeatedly arguing the point and complaining about the decision, with no new evidence
- Insisting on pursuing unjustified complaints and/or unrealistic outcomes to legitimate complaints. Taking actions that are out of proportion to the nature of the complaint, even when the complaints procedure has been exhausted
- Behaviour which has a significant and disproportionate adverse effect on the Council's resources and other residents
- Inappropriate behaviour towards Council staff investigating or involved in the complaint such as inappropriate use of language, aggression or violence
- Combinations of some or all of the above

4. The approach and procedure

It is vital that all attempts are made to maintain effective communication and relationships with complainants. Prior to taking action under this policy, the complaints case manager should ensure that:

- Every reasonable effort has been made to investigate the complaint
- Every reasonable effort has been made to communicate with the complainant
- The complainant is not now providing any significant new information that might affect the organisation's view of the complaint

Prior warning

When the Council considers that the complainant is unreasonably persistent in pursuing complaints or otherwise is acting unreasonably a risk assessment will be completed in line with health and safety policies and, if it is concluded that the behaviour is unacceptable/unreasonable, the complaints case manager will write to tell the complainant why they find the complainant's behaviour unreasonable and/or unacceptable and ask them to change the behaviour.

Decision to restrict or terminate contact with the Council

The following actions will be taken before a decision is taken to restrict or terminate a complainant's contact with the Council:

- Decisions to restrict or terminate contact will be taken following a risk assessment which may involve an on the spot decision to restrict access or terminate contact in the short term prior to a more detailed assessment being undertaken where there is a risk to staff and / or services.
- Designate a key officer to co-ordinate the organisation's actions under this policy. Complainants will be offered, if appropriate, a meeting with a designated officer of appropriate seniority to explain what steps are being taken to resolve their complaint and why their current behaviour is seen as unreasonable. Such meetings should be undertaken in an environment that protects the safety of the designated officer.

During this meeting, the designated officer will:

- Explain to the complainant the damaging effect their contact is having on the processing of their complaint and/or other complaints, and that, if this continues, the Council may need to limit/deny their access to the Complaints Case Manager and/or other staff
- Share the policy with the complainant and be warned that restrictive actions may need to be applied if their behaviour continues
- Provide or offer consideration of the complaints issue through another procedure (for example, an appeals process, mediation etc.) if appropriate
- Offer to assist the complainant to find a suitable independent advocate if appropriate

When making decisions on how to manage the unreasonably persistent complainant or unreasonable behaviour of a complainant, all relevant factors should be taken into account to ensure that action taken is appropriate and proportionate to the nature and frequency of the complainant's contacts with the authority at that time.

Due consideration should be given to the complainant's health, including any related illnesses or disabilities that may be impacting on behaviour (for example, dementia, learning disability, mental illnesses, autism etc).

If the complainant has not responded appropriately to the prior warning letter and/or the agreements during the meeting with the complainant, a decision may be made to restrict contact with the Council. The complainant will be notified in writing (or alternative formats appropriate to the individual) why it is believed their behaviour falls into the category of unreasonably persistent and/or unreasonable behaviour. The complainant will be notified what action will be taken and the duration of that action, as well as what the complainant can do to have the decision reviewed.

The following list is a 'menu' of possible options for managing a complainant's involvement with the Council from which one or more might be chosen and applied, if warranted. Any action taken should be appropriate and proportionate. It is not an exhaustive list and often the specific circumstances of the individual case will be relevant in deciding what might be appropriate action:

- Placing limits on the number and duration of contacts with staff per week or month
- Limiting the complainant to one medium of contact (telephone, letter, email etc) and/or requiring the complainant to communicate only with one named member of staff
- Refuse to register further complaints about the same matter and only acknowledge further correspondence
- Only meet with the complainant in the presence of a witness
- Where a complainant's behaviour is unreasonable and threatens the safety and/or welfare of staff, the Council may decide to terminate contact with the complainant
- Other action may be taken, for example reporting the matter to the police or taking legal action. Where such action is necessary the Council may not give prior warning
- Only meet the complainant at Council Offices and by appointment only

Where following restriction of access being implemented a complainant continues to behave in a way that is unacceptable or where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, the Council may:

- Terminate contact
- Temporarily or permanently restrict/not allow access to Council offices
- Report the matter to the police
- Take legal action

Reviewing the decision to restrict contact

When imposing this policy and placing a restriction on contact, the Council will specify a review date, usually 6 months from the initial decision.

The review should be carried out by the Chief Executive Officer to consider whether the restrictions can be lifted or modified, or should continue. The complainant will be notified of the outcome of the review.

Restrictions should be lifted and relationships returned to normal unless there are grounds to continue with the restrictions. If the restrictions are to continue, the Council will explain the reasons to the complainant and state when the restrictions will next be reviewed.

5. Appeals against decisions

Complainants must be informed in writing of the Council's decision resulting from application of this policy and procedure.

They should also be given information on how to appeal any decision.

An appeal will be heard by a review panel made up of a member of staff outside of the service area complained about, as well as the Town Mayor.

The panel will write to the complainant with their decision which will be final.

6. New complaints

New complaints from people who have been subject to this policy will be dealt with on their merits. It is recognised that any new complaint may represent a genuine service failure and therefore needs to be reviewed objectively regardless of who is bringing the complaint.

Once the complaint has been considered, a risk assessment will also be carried out based on past and current knowledge of the complainant's behaviour and the likelihood of re-occurrence of any unacceptable behaviour.

7. Recording actions and contacts with the complainant

Any decision to apply this policy must be notified to the Chief Executive Officer and recorded.

The Chief Executive Officer will keep adequate records to show:

- When a decision is taken not to apply the policy when a member of staff asks for this to be done. The member of staff will be informed of the decision
- When a decision is taken to make an exception to the policy

- When a decision is taken not to put a further complaint from such a complainant through the complaints procedure for any reason
- When a decision is taken not to respond to further correspondence, the Chief Executive Officer will make sure that any further letters or emails from the complainant are checked to ensure that any significant new information is picked up and addressed
- Any future contacts with the complainant must be recorded

8. Confidentiality

Complaints made to the Council will be treated in confidence.

The Chief Executive Officer will only pass the details of unreasonably persistent complainants and/ or unreasonable complainant behaviour to those Council staff members and partner organisations who need to know in order to implement the policy or for reasons of protecting staff safety.

Confidentiality cannot, however, be guaranteed where a vulnerable person is considered to be at risk and safeguarding procedures apply. In these circumstances, the Council may have to share the information with Norfolk County Council or other external agencies.

Customers who make their complaints public in the media may forfeit their right to anonymity and the right to confidentiality.

9. Responsibility for the procedures

Overall responsibility for the Unreasonably Persistent Complainants Policy will lie with Chief Executive Officer.

The Policy and Committee Officer will take responsibility for the application of all aspects of the procedures at departmental and organisational level.

The Operational Manager and Responsible Financial Officer will act as overall coordinator for unreasonably persistent complaints handling.

Adopted 6th June 2022