



NEWARK &
SHERWOOD
DISTRICT COUNCIL

POLICY ON “UNREASONABLY PERSISTENT”
COMPLAINANTS AND “UNREASONABLE
COMPLAINT BEHAVIOUR”

INTRODUCTION

Generally, dealing with a complaint is a straightforward process, but in a minority of cases people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource implications. These actions can occur either while the complaint is being investigated, or once the complaint investigation has been concluded.

We are committed to dealing with all complaints fairly and impartially and providing a high quality service to those who make them. However we do not expect our staff to tolerate behaviour by complainants which is unacceptable, for example which is abusive, offensive or threatening and we will take action to protect staff from that behaviour. When we consider that a complainant's behaviour is unacceptable we will tell them why we find their behaviour unreasonable and we will ask them to change it. If the unacceptable behaviour continues, we will take action to restrict the complainant's contact with us. There are a small number of complainants who, because of the frequency of their contact with us, hinder our consideration of their or other people's complaints. Exceptionally we will take action to limit their contact with us.

This guidance note aims to set out our policy on dealing with unreasonably persistent complaints and unreasonable complaint behaviour.

Definitions

We have used the terms "unreasonable complaint behaviour" and "unreasonable persistent complainants".

For us, unreasonable and unreasonably persistent complainants are those complainants who, because of their behaviour or the frequency or nature of their contact with us, hinder our consideration of their, or other peoples, complaints.

It is important to differentiate between "persistent" complainants and "unreasonably persistent" complainants. Arguably, many of the people who submit complaints are "persistent" on the entirely reasonable basis that they feel that we have not dealt with their complaint properly and are not prepared to leave the matter there and almost all complainants see themselves as pursuing justified complaints.

Unreasonable and unreasonably persistent complainants may have justified complaints or grievances but may 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 contact with us may be amicable but still places very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved.

Sometimes the situation can escalate if the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening. Such complainants are in a very small minority, but sometimes we will have to restrict access to council premises or even resort to legal action to address such behaviour, for example in the form of anti-social behaviour orders or injunctions.

This guidance 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.

Raising legitimate queries or criticisms of the 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 the complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled unreasonably persistent.

Why have a policy?

Having a policy on unreasonably persistent complainants and unreasonable complainant behaviour and corresponding guidance for staff on procedure will help us to deal with complainants in ways which are demonstrably consistent and fair. It also helps staff to understand clearly what is expected of them, what options for action are available, and who can authorise these actions. In addition, it provides a yardstick against which performance can be assessed for monitoring purposes.

Actions and Behaviours of unreasonable and unreasonably persistent complainants

These are some of the actions and behaviours of unreasonable and unreasonably persistent complainants which we may find problematic

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from our staff;
- Refusing to co-operate with the complaints investigation process while still wishing the complaint to be resolved;
- Refusing to accept that issues are not within the remit of the complaints 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 adopted complaints procedure or with 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 he or she made at an earlier stage;

- 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;
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved;
- 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, for example, excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses;
- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these "new" complaints which should be put through the full complaints procedure;
- Refusing to accept the decision - repeatedly arguing the point in complaining about the decision;
- A combination of some or all of these.

Considerations prior to taking action under the policy

The decision to designate someone as an unreasonable or unreasonably persistent complainant is onerous and could have serious consequences for the individual. Before deciding whether the policy should be applied we will satisfy ourselves:-

- The complaint is being or has been investigated properly;
- Any decision reached on it is the right one;
- Communications with the complainant have been adequate;
- The complainant is not now providing any significant new information that might affect the authority's view on the complaint.

If we are satisfied on these points, we will consider whether further action is necessary prior to taking the decision to designate the complaint as unreasonable or unreasonably persistent.

Examples of such further action are:-

- If no meeting had taken place between the complainant and an officer/officers, and provided that we know nothing about the complainant which would make this unadvisable, offering the complainant a meeting with an officer of appropriate seniority. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution;
- If more than one service area is being contacted by an unreasonably persistent complainant, we will consider:

- setting up a strategy meeting to agree the cross departmental approach; and
 - designating a key officer to co-ordinate the authority's response(s)
- If the complainant has special needs, an advocate might be helpful to both parties: we will therefore consider offering to help the complainant find an independent one;
 - Before applying any restrictions, we will give the complainant a warning that if his/her actions continue we may decide to treat him/her as an unreasonably persistent complainant and explain why.

Who will make the decision?

The decision to designate someone as an unreasonable or unreasonably persistent complainant will normally be taken by a member of the Council's Corporate Management Team (the Chief Executive, Strategic Directors or Heads of Service) but exceptionally such a decision may be taken by an officer expressly authorised to do so on their behalf. A central record of all such designations will be retained within the customer comments system.

Options for action

The precise nature of the action we decide to take in relation to an unreasonable or unreasonably persistent complainant will be appropriate and proportionate to the nature and frequency of the complainant's contacts with us.

We will consider the following as options for managing a complainant's involvement with the authority, depending on the particular circumstances of the case:-

- Placing time limits on telephone conversations and personal contacts;
- Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week);
- Limiting the complainant to one medium of contact (telephone, letter, e-mail etc) and/or requiring the complainant to communicate only with one named member of staff;
- Requiring any personal contact to take place in the presence of a witness;
- Refusing to register and process further complaints about the same matter;
- Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or e-mails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence.

Procedures for Review

Where a decision is taken to designate a complainant as an unreasonable or unreasonably persistent complainant, the officer taking the decision to so designate shall review such designation at least six monthly.

The review shall include consideration of whether the designation should be removed in its entirety and whether any restrictions placed on contacts should be lifted either wholly or in part.

The policy will be monitored as part of the Council's customer comment process.

Operating the policy

If a decision is taken to apply the policy we will write to inform the complainant that:-

- The decision has been taken;
- What it means for his/her contacts with us;
- How long any restrictions will last;
- What the complainant can do to have the decision reviewed.

We will enclose with the letter a copy of the policy.

We will keep adequate records of all contacts with unreasonable and unreasonably persistent complainants, for example:-

- When a decision is taken not to apply the policy when a member of staff asks for this to be done, or to make an exception to the policy once it has been applied;
- Or when a decision is taken not to put a further complaint from such a complainant through our complaints procedure for any reason; or
- When a decision is taken not to respond to further correspondence we will make sure any further letters, faxes or emails from the complainant are checked to pick up any significant new information.

When unreasonable and unreasonably persistent complainants make complaints about new issues these should be treated on their merits, and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

Reviews of decisions to restrict a complainant's contact, and all our responses to them, will be taken by an officer senior to the person who made the original decision. When reviews are carried out, we will write to advise the complainant of the outcome and, if restrictions are to continue to be applied, when these will next be reviewed.

We will keep any restrictions under review. Arrangements will be put in place for a check to be

made in six months on whether there has been any further contact from the complainant. If a complainant has no contact with us within that period, the position will be reviewed and a decision taken on whether any restrictions placed on the complainant's contacts should be cancelled. The outcome of this review will be noted on our records. If the restrictions are cancelled, urgent consideration will be given to reintroducing the restrictions if the behaviour which led to the original decision recommences.

Referring unreasonable and unreasonably persistent complainants to the Local Government Ombudsman

In some cases relations between us and unreasonable and unreasonably persistent complainants may break down while complaints are under investigation such that there is little prospect of achieving a satisfactory outcome. In such circumstances there is often little purpose in following through all the stages of the council's complaints procedure.

Where this occurs we may advise complainants to refer their complaint to the Ombudsman before our internal complaints procedures have been exhausted.

KHC2009/Policy on unreasonably persistent complainants