

Guidelines for dealing with unreasonable complainants



Blackburn with Darwen Borough Council

Identifying and managing unreasonable complainants

All complaints will be processed in accordance with the Corporate Complaints Policy. However, during this process, staff may have contact with unreasonable complainant behaviour and unreasonably persistent complainants.

The local government Ombudsman defines unreasonably persistent complainants as:

“Those who, because of the frequency or nature of their contact with an authority, hinder the authority’s consideration of their or other people’s, complaints”

Introduction

1. Those complaints that are categorised as “unreasonable” include those relating to unreasonable complainant behaviour and unreasonably persistent complainants and are becoming an increasing problem for the Council. The difficulty in handling such complaints can place a strain on time and resources and can cause undue stress for staff that may need support in difficult situations.
2. Staff should be trained to respond with patience and sympathy to the needs of all complainants but there are times when there is nothing further which can reasonably be done to assist complainants or to rectify a real or perceived problem. Implementation of this guidance would therefore only occur in **exceptional circumstances**.

Purpose of this policy

3. All complaints should be processed in accordance with the customer complaints policy of the Council. During this process, staff may have contact with a small number of complainants who absorb a disproportionate amount of resources in dealing with their complaints. The aim of this guidance is to identify situations where there may be unreasonable complainant behaviour or unreasonably persistent complainants and to suggest ways of responding to these situations. In determining arrangements for handling such complaints staff are presented with the following considerations to ensure that:
 - a. the complaints policy has been correctly implemented so far as possible and that no material element of a complaint is overlooked;
 - b. an equitable approach has been followed.
 - c. we are able to identify the stage at which a complaint has become categorised as an unreasonable complainant due to their behaviour or unreasonably persistent complainants.

4. Judgement and discretion must be used in applying the criteria to identify complainants that fall into this category and in deciding what action should be taken in specific cases. The guidance should only be implemented following careful consideration by, and with the authorisation of the service quality manager. As part of this discussion it is important that relevant staff be made aware of any circumstances which may have influenced the complainants actions, e.g. customers who may have mental health issues.

Definition of unreasonable complainants

5. In line with the Local Government Ombudsman guidelines, unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their or other people's, complaints.
6. Unreasonable and unreasonably persistent complainants may have justified complaints or grievances 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.
7. This guidance does not address issues of health and safety, but sits alongside existing Council policies which set out the Council's approach to harassment of and violence towards staff.
8. Complainants (and/or anyone acting on their behalf) may be classed as demonstrating unreasonable complainant behaviour or be an unreasonably persistent complainant where previous or current contact with them shows that they meet one of the following criteria:
 - Repeatedly refusing to specify the grounds of a complaint, despite offers of assistance with this from the Council's staff.
 - Repeatedly refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
 - Repeatedly refusing to accept that issues are not within the remit of a 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 new 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.
 - Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by 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 and complaining about the decision.
 - Combinations of some or all of these.
9. It is important that staff that deal with complainants whom they believe to be unreasonable, must provide the Corporate Complaints Manager with evidence to this effect, e.g. notes of conversations, correspondence etc.

Options for dealing with unreasonable complainants

10. Where complainants have been identified as demonstrating unreasonable behaviour or are unreasonably persistent in accordance with the above criteria, the Corporate Complaints Manager in consultation with the Director of Legal will determine what action to take. The Corporate Complaints Manager will implement such action and will notify complainants in writing of the reasons why they have been classified as such and the action to be taken.

This notification may be copied for the information of others already involved in the complaint, e.g. other departments, councillors, members of parliament. A record must be kept for future reference of the reasons why a complainant has been classified as demonstrating unreasonable complainant behaviour or an unreasonably persistent complainant.

11. The Corporate Complaints Manager may decide to deal with complaints in one or more of the following ways:
 - If no meeting has taken place between the complainant and officer/officers and provided that the Council knows nothing about the complainant which would make this inadvisable, consideration will be given to 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 department is being contacted by an unreasonably persistent complainant consideration will be given to:
setting up a strategy meeting to agree a cross departmental approach; and designating a key officer to co-ordinate the Council's response(s).
 - If the complainant has special needs, an advocate might be helpful to both parties: consideration will be given to offering to help the complainant find an independent one.
 - Placing time limits on telephone conversations and personal contacts.
 - Restricting the number of telephone calls that will be taken.
 - Limiting the complainant to one medium of contact (telephone, letter, email) and/or requiring the complainant to communicate only with one named member of staff.
 - Requiring any personal contacts 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 acknowledgments only of letters, faxes or emails or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer will be identified who will read future correspondence.
- A decision may be made that staff are to withdraw from a telephone conversation or other methods of contact with a complainant. The following statement may be used:
“I’m sorry I am unable to deal with your complaint. I understand your complaint is being dealt with by....., please contact telephone number.....”
- A decision may be made in conjunction with the Director of Legal to decline contact with the complainants either in person, by telephone, by fax, by letter, other communication media or any combination of these. In these circumstances the following statement may be used:
“I’m sorry I am unable to deal with your complaint and will have to terminate the call”.
- Inform the complainants that in extreme circumstances the Council reserves the right to pass unreasonable complaints to the Council’s solicitors.
- In some instances, abusive, threatening or other unreasonable behaviour may be a feature of the complainant’s disease or mental illness (e.g. chronic anxiety or stages of dementia). In such cases if possible, the Council should consider securing a whole case review from all professionals involved. The Council should refer to the mental capacity act and seek advice from social services.

Victims of Harassment

12. The Council will take legal action where appropriate against persons who are responsible for harassment or for violent incidents in line with the Violence & Aggression at Work Policy. The nature of the action will depend on the specific circumstances.
13. Employees will be supported if they wish to take such action themselves subject to discussions with the relevant director and a representative from legal services.
14. The Council will make representations to the police and other relevant agencies to assist in effective response to incidents, and will provide

support and assistance to employees who are called on to act as witnesses in legal proceedings arising from a violent incident.

Review of status

15. Once complainants have been determined as demonstrating unreasonable complainant behaviour or as an unreasonably persistent complainant there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach or if they submit a further complaint for which normal complaints procedures would apply. The situation should therefore be reviewed at intervals e.g. 6 months. Staff should previously have used discretion in recommending this status at the outset and discretion should similarly be used in recommending that this status be withdrawn when appropriate. Where this appears to be the case, discussions will be held with the Corporate Complaints Manager. The review should be carried out by the Director of Legal. Subject to their approval, contact with the complainants and application of the Council's complaints procedures will then be resumed and a letter will be sent to advise the complainant of this.