

Unreasonable and Unreasonably Persistent Complainants Policy

1. Introduction

- 1.1 Complaints are dealt with in accordance with the Council's complaints policy, most complainants behave in a reasonable manner, however in a small minority of cases they may behave in an unreasonable manner, or be unreasonably persistent in their contacts and submission of information. This can impede the investigation of their complaint and have a significant impact on council resources. These actions can occur either while their complaint is being investigated, or once we have concluded the complaint investigation. This policy reflects the Local Government Ombudsman's, "Guidance note on management of unreasonable complainant behaviour" revised 2011 and the Council's complaints policy.

2. Definition

- 2.1 The Council uses the Local Government Ombudsman definition:

"For us unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints."

3. Complaints Policy and Unreasonable and Unreasonably Persistent Behaviour

- 3.1 In cases where a complainant's behaviour is deemed to be unreasonable; for example the complaint being pursued has no reasonable basis, or the council has already taken appropriate action in response to the complaint but the complainant persists, we will request that the complainant follow the steps in the complaints procedure including if they are still unhappy after stage 2 to take their complaint to the Local Government Ombudsman.
- 3.2 Once they have been through the complaints procedure unless they raise new information about their complaint correspondence should be read and put on the correspondence system but no longer be responded to.

4. Examples of unreasonable actions and behaviours

- 4.1 Outlined below are examples of trigger actions/behaviours which may cause the policy to be invoked:
- Refusing to specify the grounds of a complaint, despite offers of assistance.
 - Refusing to co-operate with the complaints investigation process.
 - 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 with good practice.
 - Making unjustified 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 he or she made at an earlier stage.
 - Introducing trivial or irrelevant new information at a later stage.

- Raising numerous, detailed but unimportant questions; insisting they are all answered
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of organisations.
- Making constant 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 that the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

4.2 Maidstone Borough Council is committed to the public sector equality duty and has due regard to the need to eliminate unlawful discrimination, harassment and victimization and other conduct prohibited by the act and equality of opportunity for all. As part of that commitment, the Council is committed to creating and preserving a working environment throughout the organisation where harassment and threatening or abusive behaviour is deemed both unacceptable and intolerable.

- Offensive remarks in particular but not limited to in relation to any of the 9 protected characteristics: Age, Disability, Gender Reassignment, Race, Religion or Belief, Sex, Sexual Orientation, Marriage & Civil Partnership, and Pregnancy & maternity
- Unwanted physical contact or assault
- Intimidation
- Threats
- Excessive swearing or foul language

5. **Options for the Council if behaviour is unreasonable or unreasonably persistent**

5.1 Any actions taken should be proportionate to the nature and frequency of the complainant's current contact. The following options may be suitable taking the complainant's behaviour and circumstances into account. The objective is to manage the complainant's behaviour in such a way that their complaint can be brought to a conclusion without taking up further resources. Options include:

- Refusing to register and process further complaints about the same matter
- 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 and/or requiring the complainant to communicate only with one named member of staff
- Where a decision on the complaint has been made providing the complainant with acknowledgement only of letters, faxes, or emails or ultimately informing the complainant that future correspondence will be read and placed on file. A designated officer will be identified to read future correspondence.

6. Applying and Operating the Policy

6.1 A decision will be taken by relevant Director on whether to take action under this policy, a request to take action can be given to the director by a Manager or Head of Service within their area. Members of staff identifying a complainant as unreasonable would be expected to inform their manager so a decision can then be made by the Director. The Director should then contact the Head of Change and Scrutiny for advice as needed.

6.2 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 the Director should be satisfied that:

- 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; and
- The complainant is not now providing any significant new information that might affect the council's view on the complaint.

6.3 Prior to taking a decision to apply the policy the council should warn the complainant that if his/her actions continue the council may decide to treat him/her as an unreasonable or unreasonably persistent complainant. If a decision is taken to apply the policy, the Director will write to the complainant with a copy of the policy to explain:

- Why the decision has been taken;
- What it means for his or her contact with the organisation;
- How long any restrictions will last; and
- What the complainant can do to have the decision reviewed.

In terms of the length of time that restrictions should be applied this should be based on the merits of each case; it should be noted that this should be reviewed at least every six months.

7. Recording the application of the policy.

7.1 Records will be kept by the Head of Change and Scrutiny with the support of Executive Support. Records will show:

- If following a request the decision is taken not to apply the policy;
- When a decision is taken 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 this complainant through the complaints procedure for any reason;

- When a decision is taken not to respond to further correspondence, make sure any further letters, faxes or emails from the complainant are checked and pick up any new or significant information; and
- Any action taken in respect of applying this policy including when the decision was taken and when it should be reviewed.

7.2 When complaints about new issues are made, these should be treated on their merits, and decisions will be taken on whether any restrictions which have previously been applied are still appropriate and necessary in consultation with the Director who made the decision.

8. Rights of Appeal

8.1 Appeals against a decision or restrictions attached to a decision will be considered by the Chief Executive or where necessary the Monitoring Officer.

9. Who will be informed within the Council

9.1 If the policy is applied and contact is restricted the details of the restriction, the length of time it will be applied and to whom will be given to the Head of Change and Scrutiny who will email to the Customer Services Manager and the Senior Leadership Team to disseminate to managers whose teams may have contact with that individual.

For advice on complaints and appropriate action please contact Angela Woodhouse on 01622 602620 or angelawoodhouse@maidstone.gov.uk