

Thurrock Council

Complaints Management

Unreasonably persistent complainants and unreasonable behaviour

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Complaint definition

"A complaint is an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the council or its staff affecting an individual customer or group of customers."

Purpose

This document details guidance on how to deal with unreasonably persistent complainants and unreasonable behaviour. It also provides guidance on dealing with verbal abuse, email abuse and assault when dealing with complaints.

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 issues for the council. These actions can occur either while their complaint is being investigated, or once an authority has concluded the complaint investigation.

This document aims to help staff deal with issues of this nature and has been produced following Local Government Ombudsman guidance on good practice in dealing with complainants that present in such a way.

The Local Government Ombudsman's definition of 'unreasonable complainant behaviour' and 'unreasonably persistent complainants' is as follows:

"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."

It is important to differentiate between 'persistent' complainants and 'unreasonably persistent' complainants. Arguably, many of the people who submit complaints to the council are 'persistent' on the entirely reasonable basis that they feel the authority has not dealt with their complaint properly and are not prepared to leave the matter there.

Unreasonable behaviour and unreasonably persistent complainants may have justified complaints or grievances but are 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 the council may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved.

Sometimes the situation between the council and the complainant can escalate and the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable – for example, abusive, threatening or offensive.

The council wants to ensure that, in using the complaints procedure:

- individuals who demonstrate unreasonable behaviour or are unreasonably persistent are dealt with fairly, honestly and properly
- the resources of the council are used as effectively as possible
- other service users or employees of the council do not suffer any detriment as a result of their behaviour

All reasonable measures will be taken to resolve complaints through the complaints procedure.

Actions and behaviours of unreasonable behaviour and unreasonably persistent individuals

Such individuals are a small minority, but sometimes the council finds itself in the position of having to restrict access to council premises or even having to resort to legal action to address such behaviour.

Detailed below are some of the actions of unreasonable behaviour and unreasonably persistent individuals which the council consider problematic – it is not an exhaustive list and will vary:

- refusing to specify the grounds of a complaint, despite offers of assistance with this from council staff
- refusing to cooperate with the complaints investigation process while still wishing their complaint to be resolved
- 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 comment on, or raising large numbers of detailed but unimportant questions and insisting they are 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 within the council and, at the same time, with a member of parliament, a councillor, the Standards Board, the Ombudsman, and so on
- making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into
- 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(s)
- combinations of some or all of these

It is acknowledged that some departments receive calls from customers, residents and visitors which may fall into the category of unreasonably persistent, they may also be on the receiving end of verbal and written assault, such as email abuse.

In such instances it is **essential** that a record is maintained for **each individual** who presents in this way so that the Information Management team is able to make informed decisions and take necessary action.

The 'unreasonably persistent complainants' and 'unreasonable behaviour' log, available from the council's intranet, or the Information Management team, must be completed **on every occasion**.

The Information Management team will then decide the most appropriate course of action to be taken in terms of classification and will link in with Legal Services due to the possibility of any potential legal challenge.

How we will manage unreasonably persistent complainant and / or unreasonable behaviour

Step 1 – warning

Where circumstances permit we will give the individual a warning that, if their behaviour or actions continue, we may need to take action or apply restrictions. The warning will mention that repeated behaviour will result in the council invoking its unreasonable behaviour process.

Step 2 – unreasonable behaviour process

If warnings are ignored then the council will deal with the individual in line with this guidance. The action we take will be appropriate and proportionate, and may include one or more of the following options:

1. placing time limits on telephone conversations and personal contacts
2. restricting the number of telephone calls that will be taken – for example, one call on one specified morning/afternoon of any week
3. limiting the individual to one medium of contact – telephone, letter, email – and / or requiring the complainant to communicate only with one named member of staff
4. requiring any personal contacts to take place in the presence of a witness
5. refusing to register and process further complaints about the same matter
6. where a decision on the complaint has been made, providing the complainant with acknowledgements 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 should be identified who will read future correspondence
7. blocking email accounts from individuals

When making decisions about appropriate action the interests of the complainant will be balanced against the effects that his/her behaviour or actions are having on employees, other service users and the efficient use of resources.

We will tell the complainant that the decision has been taken, what it means for his or her contacts with the council, how long any restrictions will last and what the complainant can do to have the decision reviewed. The council will always review complaints received for new issues that have not been previously addressed.

A complainant who has been designated as unreasonably persistent complainant may take a complaint to the Local Government and Social Care Ombudsman and / or the Housing Ombudsman about the way in which he or she has been treated.

Consideration not to apply this procedure

If a decision is reached, following submission of evidence from departments, not to apply this procedure, records will be maintained by Information Management team and the directorate or department will be informed of the outcome and next steps.

Verbal abuse

Staff should not be expected to put up with verbal abuse from complainants either over the telephone or face-to-face. If an individual is abusive over the telephone staff should advise them that they are not prepared to continue with the call if the abuse continues.

If the individual continues with abuse staff should state "I am ending this call" and put the telephone down. If an individual is abusive during an interview after having been warned that abuse is not acceptable then the interview should be terminated and the individual asked to leave.

It may be necessary to seek assistance from the Security team, and this should always be considered should the matter escalate.

If an individual is persistently abusive on the telephone staff should be instructed not to continue with the call once the caller is identified and notify the Information Management team immediately. The individual will be advised in writing that this instruction has been given.

All such, incidents should be noted in writing to the Information Management team, so that consideration may be given to recording the individual on the 'Essential Information for the Protection of Employees' list, where appropriate.

Email abuse

Staff should not tolerate email abuse when processing complaints or enquiries, or in general; these can be particularly frustrating for the recipient, can be resource intensive and at times can give cause for distress.

If a staff member receives what they consider to be an abusive email, they should notify the Information Management team for advice as to how to proceed. It may be necessary to implement elements of these procedures.

Assault

It is likely that an individual who is attempting to investigate a complaint is considered to be at risk of violence because of previous incidents. Attempts should be made to create a safe environment for any interview – for example, accompaniment for the Investigating Officer; restrictions on venue, the complainant being informed that if there is any suggestion of risk the interview will be stopped.

Due to the provisions of health and safety legislation, the employer is under an obligation not to knowingly place an employee at risk and therefore in the last resort the council could refuse to investigate the complaint. This decision will be taken by consulting Legal Services and / or the police.

If there were to be a challenge to such a decision the council would have to be able to demonstrate that it had acted reasonably as the decision could be challenged by way of a complaint to the Local Government Ombudsman, application for Judicial Review or appeal to the Secretary of State to use default powers to compel an investigation.