



BOROUGH COUNCIL OF KING'S LYNN AND WEST NORFOLK

POLICY ON MANAGING UNREASONABLE COMPLAINANT BEHAVIOUR

UNREASONABLE COMPLAINANTS POLICY

This policy sets out our approach to the exceptional circumstances when complainants pursue a particular complaint in a way that is unreasonable. We aim to deal fairly, honestly, consistently and appropriately with all complaints, but we retain the right to restrict or change access to our services where we consider a complainant's actions to be unreasonable. Our aim in doing this is to ensure that other complainants and our staff do not suffer any disadvantage from complainants who act in an unreasonable manner.

This policy will not affect anyone's rights under the Data Protection Act 2018, Human Rights Act 1998 or the Freedom of Information Act 2000 or their rights in respect of other complaints they wish to make.

DEFINITION OF UNREASONABLE BEHAVIOUR

People may act out of character when under stress and we do not view behaviour as unreasonable because a complainant is forceful or determined. However, the actions of complainants who are angry, demanding or persistent may result in unreasonable demands on workloads and unacceptable behaviour towards staff.

Such actions have been grouped under three headings:

1. Unreasonable Persistence

Examples include:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.

- Refusing to co-operate with the complaints investigation process while still wishing their 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 a way, which is incompatible with the adopted complaints procedure or with good practice.
- Making what appears 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.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is investigated or has been completed. For example, excessive telephoning or sending emails to council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints, after the complaints process has been completed, essentially about the same issue, 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. Continually contacting members and officers of the council following a decision. The council will consider any new evidence presented in respect of the complaint up to two years following the resolution of the complaint. This is in line with the council's retention strategy for corporate complaints, taking account our responsibilities under the General Data Protection Regulation (GDPR).
- Combinations of some or all of these.

This policy does not preclude complainants submitting complaints on matters unrelated to the complaint which has resulted in them being placed on the unreasonable complainants register. Any further complaints will be dealt with on their merits.

When we find a complainant to be unreasonably persistent, we will tell them why and ask them to change their behaviour. If the behaviour continues, we will take action to restrict the complainant's contact with the Council. Any such restrictions will be proportionate after consideration by the appropriate Assistant Director in consultation with an Executive Director. The most likely outcome would be: -

- a) requesting contact in a particular form (e.g., by letter only)
- b) requiring contact to take place with a named member of staff and by prior appointment only
- c) restricting telephone calls to specific days and times; and /or
- d) Requesting the complainant enter into an agreement about their contact.
- e) where a) to d) fail to stem unreasonable behaviour, to advise the complainant that all further correspondence and complaints on or closely related to the same subject will be read and filed without acknowledgement and no further response will be sent by officers of the Council, unless the complaint contained new evidence/information.

The reason for the restriction will be recorded and the Assistant Director, in consultation with the Executive Director will state how long any restriction will apply for before it is reconsidered.

Restrictions on contact will be automatically reviewed every six months, to determine whether the restrictions imposed are still necessary and should remain, as it specifically relates to the original complaint. This review will be carried out by an Assistant Director and an Executive Director.

The complainant will be notified of the decision to place them on the register by letter. They will also be notified of the result of the 6-monthly review, unless there are good reasons not to do so.

2. Aggressive or Abusive Behaviour

The Council recognises that customers who feel dissatisfied with the service they have received may feel angry about their treatment. However, the Council has a duty of care towards the safety and welfare of its staff.

Examples of unreasonable behaviour include any action or series of actions, which are perceived by the staff member to be abusive or threatening whether they are delivered verbally, in writing or via social

media in the form of Cyber Abuse, if the council is made aware of it. This includes not only behaviour directed at them, but also their families or associates. If a staff member feels threatened by a complainant, they should report their fears and the reason for them, to their line manager. The line manager will record the details and as part of the action arising from his/her, investigation will consider-

- Writing to the perpetrator requiring no repetition of the behaviour and, if necessary, setting conditions and restrictions for further contact with staff.
- Whether to report the matter to the Police or take other legal action-

If dealing with such behaviour in a telephone conversation, the staff member should tell the complainant that they would terminate the call if the behaviour continues. If, despite this warning the behaviour continues, the contact should be terminated and a note placed on the case file recording the circumstances of the termination. Staff will respond to repeated calls in the same way.

Repeated calls may be deemed harassment, which, after consultation with the Executive Director, may be reported to the Police.

2.1 Cyber Abuse

Councillors and staff (individual or groups) may become targets of cyber abuse, which may include threats both direct and indirect, harassment, defamation, impersonation, insults or prejudice-based abuse e.g. homophobic, sexist, racist or other forms of discrimination. Channels include email, mobile phones, website, chatrooms and social networking sites such as Facebook and Twitter. These actions can intrude into a victim's private life.

Any such incident will be investigated and appropriate action taken from writing to the perpetrator requesting they cease and delete all offending material to reporting the matter to the Police.

3. Unreasonable Demands

Complainants may make unreasonable demands through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. What amounts to unreasonable demands will depend on the circumstances surrounding the behaviour and the seriousness of the issues raised by the complainant.

Examples might include demanding responses within an unreasonable timescale, insisting on speaking to or seeing a particular member of staff, continual phone calls or letters.

We consider these demands to be unreasonable if they start to disproportionately impact on the work of staff, such as taking up an excessive amount of staff time to the disadvantage of other customers or services. Actions falling within this category will be dealt with as set out in “Unreasonable Persistence” above.

4. Implementation of the Policy

In cases where this becomes necessary, we will write to the complainant saying why we believe their behaviour is unreasonable, what action we are taking and the duration thereof.

We will also tell them how to challenge the decision if they disagree with it, to whom such an appeal should be addressed, and the time frame for submission of this request.

This policy will only be used as a last resort and after all other reasonable measures have been taken to resolve complaints following the appropriate procedure. Judgement and discretion will be applied to ensure that contacts from the complainant about matters other than the complaint are not ignored and that as a result there is a failure to respond to a request for service or other information.

New complaints from customers who have been regarded as unreasonably persistent complainants will be treated on their merits.

Withdrawal of any action taken under this policy must be undertaken following consultation between an Assistant Director and Executive Director.

5. Appeals Procedure

A complainant can appeal a decision to invoke this policy against them by submitting their request in writing to the Chief Executive within 12 months of the “Decision”.

The “Decision” for the purposes of this section includes:

- a) A decision to impose restrictions under this policy
- b) The decision on any review of the imposition of restrictions under this policy

There shall be only one opportunity to appeal each separate Decision, unless a relevant reason is submitted by the complainant to justify another appeal. Relevance to be determined by the Chair, Vice-Chair and one other Member of the Standards Committee.

Additionally, an appeal may also be reasonably requested under this section where relevant–new evidence is submitted by the complainant. Relevance to be determined by the Chair, Vice-Chair and one other Member of the Standards Committee.

The appeal shall be determined by the Council’s Standards Committee, which will include an Independent Person appointed by the Council. The complainant will have the right to attend and bring a representative if they choose.

Upon an appeal request being accepted, the complainant will be sent a copy of the appeal hearing procedure which will set out the date by which their representations must be submitted and the date of the hearing.

If not accepted, the complainant will be sent a copy of the reasoning with information on how to complain to the Local Government and Social Care Ombudsman.

The decision of the Standards Committee will be final, however the complainant will still have the right the right to complain to the Local Government and Social Care Ombudsman about the way their appeal was handled and/or to seek a judicial review of the final decision.

6. Unreasonably Persistent Complainants and links to other policies

The council’s policy on Unreasonably Persistent Complainants aligns with other council policies, which include but is not limited to, Equality Policy, Health, Safety and General Welfare, Harassment Policy, Codes of Conduct for staff and Councillors and Freedom of Information and General Data Protection Requirements.

7. Confidentiality

All complainants have the right for their information to be kept confidential. The appropriate Executive Director and the Monitoring Officer only will retain records of complainants who are registered as

unreasonably persistent. Information of who is on the register will be released to officers/members only if it is necessary for the reasons of health and safety or for them to perform their functions properly and to discharge their duty.

8. The Policy

This policy will be reviewed annually by the Corporate Performance Panel.