

Unreasonably Persistent Complainants

London Borough of Barnet

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1. Introduction

A complaint is any expression of dissatisfaction of our services, whether justified or not. The council recognises the importance of customer complaints and welcomes them as a valuable form of feedback about our services. We will use the information gained from complaints to help improve the quality of the services we provide and our relations with our customers.

The council will deal with complaints impartially, objectively and professionally. We will treat complainants with respect, as we ourselves would like to be treated. Complainants and their families will not receive adverse treatment because they have made a complaint.

However, in some circumstances it is necessary to restrict contact between the council and Complainants. We do not expect staff to tolerate unacceptable behaviour including behaviour which is abusive, offensive or threatening. In these circumstances, we will take action to protect our staff; this is what is outlined in this policy.

Raising legitimate queries or criticisms are not usually regarded as unreasonably persistent. Also, if a complainant is unhappy with the outcome and seeks to challenge it, this will not result in him or her being labelled as unreasonably persistent. Furthermore, we appreciate that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of their case rather than their attitude. However, if a complainant becomes persistent in an unnecessarily aggressive manner this would be considered under the Unreasonably Persistent Complainants Policy.

Examples of unreasonable actions and behaviours

- Continuously shouting to a member of staff, swearing, threats, and name-calling. Obsessive, harassing, or prolific behaviour.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Raising numerous, detailed but unimportant questions; insisting that they are answered.
- Taking a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of other service areas or members of staff.
- Making excessive demands on the time and resources of staff with lengthy telephone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved. Refusing to specify the grounds of a complaint, despite offers of assistance.
- Insisting on the complaint being dealt with in ways which are not covered within the council's complaints procedure, e.g. planning decisions.
- Changing the basis of the complaint as the investigation proceeds. Denying or changing statements made at an earlier stage.
- Refusing to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome and /or denying that an adequate response has been given.
- Covertly recording meetings and conversations.

- Making discriminatory or other inappropriate personal comments (including those which contravene the Equalities Act 2010) for example on grounds of age, disability, ethnicity, gender, gender transformation, marriage, pregnancy, religion, race, sexual orientation or sex which may cause offence.

2. Invoking this policy

Where a complainant displays unreasonably persistent behaviour our Unreasonably Persistent Complainants Policy will be invoked.

The appropriate head of service will contact the complainant with an official warning in writing. In this warning, the head of service will explain why the complainant's behaviour is classed as unreasonably persistent, and will ask the complainant to change their behaviour when contacting the council.

If the complainant does not alter his or her behaviour, the Head of Information Management will write to the complainant to explain which measures have been put in place to restrict the complainants contact with the council and for how long these measures will be in place. In most cases restrictions will be in place for 6 months and subject to a review after this point.

These restrictions could include:

- Banning the complainant from making contact by telephone except through a third party.
- Banning the complainant from sending emails to individual and/or all council officers.
- Banning the complainant from accessing any council building except by appointment.
- Requiring contact to take place with one named member of staff only.
- Restricting telephone calls to specified days / times / duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint, unless the complainant is supplying new information relevant to that complaint.

Where the decision has been made to restrict contact with complainants, we will explain:

- Why we have taken the action
- What action we are taking
- The duration of this action
- The review process of this policy
- How to appeal

The council reserve the right to contact the police in circumstances in which behaviour towards staff threatens their welfare and safety.

Right of Appeal

All complainants have the right of appeal once the Unreasonably Persistent Complainants Policy has been invoked. An appeal can be made in writing to the Director of Resources, the details of which will be supplied in our correspondence. In order for us to consider your appeal, you must clearly state why you disagree with the decision.

All appeals will be reviewed by the Director of Resources. The appeal is a written process where the case history will be re-examined.

A letter will be sent to the appellant after the appeal has concluded, which will confirm the decision from the appeal.

3. Disruptive Telephone Calls

If a complainant persistently calls to discuss a complaint or to make further complaints, and this is proving time consuming and disruptive, it is reasonable for the member of staff concerned to ask the complainant to put their concerns in writing and to terminate the conversation.

It is also acceptable for an employee to terminate a telephone conversation if a complainant displays an unacceptable level of abuse or aggression during the conversation. The complainant will be warned and given the chance to modify their behaviour before the conversation is terminated.

If a call needs to be terminated as a result of the complainant's conduct, the member of staff should do so politely and keep a record of what occurred.

4. New complaints from complainants who have had contact reduced under the Unreasonably Persistent Complainants Policy

New complaints from complainants who have had contact reduced under the Unreasonably Persistent Complainants Policy will be considered by the Head of Information Management on its own merits.

5. Further escalation in the event of continued contact under the Unreasonably Persistent Complainants Policy

Once the council has invoked this policy, if we continue to receive contact in breach of the policy, the council has a right to make an application to court for an injunction, to prevent the complainant from contacting the council unnecessarily.

If a complainant should make numerous frivolous claims in the courts against the council it is possible for the council to ask for an order that the claim is without merit and an abuse of process. A complainant named as a vexatious litigant may not serve claims on the council without firstly obtaining a Court's permission following consideration of the proposed claim.

Consideration will be given to possible exceptions to the council taking this action. For example, in the case of an extreme emergency in which the complainant needs to make contact with the council, for example, such as a fire or a gas leak at a housing tenants property.

6. Review

Any restrictions on contact between complainants and the council will be reviewed in line with the timescales applied under this policy. If the timescales are to be extended the appellant will be informed in writing; otherwise the application of this policy will expire at the end of the allocated timescale.

7. Record Keeping

A record will be kept of all unreasonably persistent complainants. This will include:

- what decision was made,
- when the decision was made and;
- why the decision was made.

This record will be updated each time the decision is reviewed. Where the review has led to a decision to lift the restrictions, all the documentation relating to the restriction under this procedure will be retained for two years from the date of the review, and then destroyed.

8. Associated Policies / Legislation

Policy/Legislation
Corporate Complaints Policy
Adults and Communities Statutory Complaints Policy
Children's Service Statutory Complaints Policy
General Data Protection Regulation (GDPR)

9. Review of Policy

This policy will be reviewed when necessary, including following the receipt of best practice guidance from the Local Government and Social Care Ombudsman. The council reserves the right to make amendments to this policy at short notice, or in any situation that warrants an immediate amendment being introduced.