

Unreasonably Persistent Complainants Policy

This policy should be used in conjunction with other Council policies (for example; the Compliments, Complaints and Comments Policy and those policies relating to health & safety and equal opportunities) and with consideration to the Council's obligations under the Human Rights Act, Freedom of Information Act, and the Equalities Act.

Gedling Borough Council is committed to dealing with all complaints fairly and impartially and to provide a high quality service to those who make them. The purpose of this policy is to ensure that the Council deals with complaints in a consistent and fair manner and to help staff understand what is expected of them, what options are available and who can authorise these actions.

However, there are a small number of customers who, because of the frequency or manner of their contact with the Council, hinder our consideration of theirs or other people's complaints and place an unreasonable amount of time on the Council in dealing with the matter. These 'unreasonably persistent complainants' will be dealt with on an exception basis and action will be taken to limit their contact with the Council. This will ensure that Council resources are used effectively and that other service users and/or staff do not suffer any detriment as a result of the complainant behaviour.

Who is a persistent complainant?

A persistent complainant may have a justified complaint or grievance, but may pursue them in inappropriate ways, or they may be intent on pursuing complaints that have no substance or which have already been investigated and determined. Their contact with the council may be amicable but still place heavy demands on staff time.

A persistent complainant may exhibit behaviours outlined in appendix 1. The danger is that their complaint, even if it has merits, is treated without a significant degree of seriousness and consideration, which compounds their complaint and leads to criticism of the Council.

Sometimes the situation moves from being unreasonably persistent to unacceptable behaviour (i.e. abusive, offensive or threatening). If this occurs, action may need to be taken under procedures relating to the Council's Employee Protection Register.

Deciding whether a person should be classed as a persistent complainant

The decision to designate someone as an unreasonably persistent complainant could have serious consequences for that person. The decision to designate someone as an unreasonably persistent complainant will be made by the Service Manager for the relevant service area, in consultation with the relevant Director. Before deciding whether the policy should be applied we must be satisfied that:

- The complaint is being/has been investigated properly in line with the Compliments, Complaints and Comments policy. If the complainant asks the same question, due to failure by the Council to adequately respond to the complaint, this cannot be considered persistent.
- The decision made is the right one based on all information provided.

- Communications with the complainant have been adequate. The complainant is not now providing any significant new information that might affect the council's view on the complaint.

If the Service Manager, in consultation with the relevant Director, is satisfied on these points, they should then consider whether any further action is necessary prior to taking any decision to designate the complainant as unreasonable/unreasonably persistent. Examples might be:

- If no meeting has taken place between the complainant and a member of staff from the Council, then providing that we know nothing about the complainant which would make this unadvisable, we could consider offering the complainant a meeting with a member of staff of appropriate seniority. This may aid a resolution.
- If more than one department is being contacted by an unreasonably persistent complainant then the following should be considered;
 - Setting up a meeting to agree a cross departmental approach
 - Designating a key member of staff to co-ordinate the Councils response
- If the complainant has special needs, an advocate may be advisable.
- Before applying any restrictions, giving the complainant a warning that if their actions continue we may decide to treat them as an unreasonably persistent complainant and explain why.

Possible action that could be taken

The actual action that we may take should be appropriate and proportionate to the nature and frequency of the complainant's contacts with the Council. If it is felt that action should be taken than that could include one or more of the following:

- Placing time limits on telephone conversations and personal contact.
- Restricting the number of calls that will be taken (for example one call on a specified morning/ afternoon of any week).
- Limiting the complainant to one access channel (telephone, letter, email etc) and/or requiring the complainant to communicate only with one named member of staff.
- Managing contact with the help of an independent advocate.
- Refusing the complainant access to the Council's premises.
- Requiring any personal contacts to take place in the presence of a witness.
- Refusing to process further complaints about the same matter.
- Where a decision on a complaint has been made – only acknowledging future correspondence or informing the complainant that future correspondence will be read and placed on file but not acknowledged. The complainant should be reminded of their right to refer the complaint to the Local Government and Social Care Ombudsman.

In deciding which options to apply, departments should be particularly careful to balance the rights of the individual with the needs of the Council and decisions should be made by the Service Manager for the service area, in consultation with the relevant Director.

Operating the policy

Deciding whether the policy should be applied to a complainant

Having regard to all the circumstances concerning the case the Service Manager for the department dealing with the complaint should make the decision as to whether the policy should be applied to a complainant, in consultation with the relevant Director.

Informing the complainant

If a decision is made to apply the policy we must write to inform the complainant that:

- The decision has been taken and the reason for it
- What this means for the complainant in contacting the council
- How long any restriction will last
- What the complainant can do to have the decision reviewed

Record of actions taken

Adequate records must be kept detailing the reason why any decision has been made and all contacts with unreasonable and unreasonable persistent complainants, for example

- Why a decision was made to designate someone as an unreasonable or unreasonable consistent complainant
- When a decision is taken not to put a further complaint from such a complainant through its complaints procedure for any reason
- When a decision is taken not to respond to further correspondence, and to make sure that any further correspondence is read to pick up any significant new information
- When a decision has been made to review or cancel any restriction that has been placed on a complainant

Reviewing the decision

When the letter is sent to the complainant telling them that the policy has been applied to them they should be told that if they wish to have the decision reviewed they must write to the Service Manager (Customer Services and Communications) setting out their reasons for the review within 14 days of the date of that letter.

On receipt of any letter requesting a review of the decision the Service Manager (Customer Services and Communications) should refer the matter to the Director of Organisational Development & Democratic Services who will carry out that review.

The complainant should be then informed, in writing, within 10 working days of receipt of the request for review by the Director of the outcome of the review and, if restrictions are to continue to be applied, when these will be reviewed.

A review of the restriction should be taken when the restrictions imposed expire. If the complainant has complied with the restrictions, they will usually be lifted and relationships returned to normal unless there are good grounds to extend them. Where the complainant fails to comply with the restrictions or continues to behave unreasonably, the matter will be reviewed by the Director of Organisational Development & Democratic Services to determine whether additional restrictions should be imposed.

When unreasonable and unreasonably persistent complainants make complaints about new issues these should be treated on their merits, and decisions will need to be taken on whether any current restrictions are still appropriate and necessary.

Recording, monitoring and reporting

The Service Manager (Customer Services and Communications) should be notified when this policy is applied to any complainant.

Examples of behaviour – either one or more can constitute unreasonable behaviour

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
- Attempting to use the complaints procedure to pursue a personal vendetta against a member or officer of the Council.
- 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 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 by a senior officer or with a person named by the complainant.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
- Using obscene, racist, abusive, offensive, aggressive or threatening language or behaviour in written correspondence or direct personal contacts with staff.
- 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.
- Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the Ombudsman
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being investigated (i.e. excessive contact to numerous council staff or lengthy complex correspondence 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.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.