

Guidance Notes for the Complaints Team

Good investigative practice

The majority of complaints are likely to be capable of being dealt with speedily and simply. Where, however, a more substantial inquiry is required, the following guidance may be helpful for investigating officers.

Check if there are any previous complaints from this person. Contact the complainant to arrange a meeting (or time for a telephone conversation) and:

- clarify the complaint;
- clarify the outcome sought;
- check whether the complainant needs support of any kind, or has poor sight or hearing, or a language difficulty, and check what help the complainant needs so as to be able to understand the discussion properly;
- check that the complainant has a copy of the Council's complaints leaflet.

Dealing with unreasonably persistent complaints

Unreasonably persistent complainants can cause undue stress for staff and place a strain on the Council's time and resources. All staff should try to respond with patience and sympathy to the needs of all complainants but there are times when there is nothing further which can be reasonably done to assist them or to rectify a real or perceived problem.

In determining arrangements for handling such complaints, staff are presented with two key considerations:

- Ensure that the complaints procedure has been **correctly implemented so far as possible and that no material element of a complaint is overlooked or inadequately addressed** and to appreciate that even unreasonably persistent complainants may have aspects which contain some substance. The need to ensure an equitable approach is crucial.
- Identify the stage at which a complaint has become unreasonably persistent. Implementation of this policy would only occur in **exceptional circumstances**.

It is emphasised that this procedure should only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the general procedure, or another avenue, such as the Local Government Ombudsman.

Judgement and discretion must be used in applying the criteria to identify potential habitual or vexatious complainants and in deciding action to be taken in specific cases. The procedure should only be implemented following careful consideration by, and with the authorisation of, the relevant Head of Service and after liaising with the DFC.

Options for dealing with unreasonably persistent complainants

Where complainants have been identified as unreasonably persistent, in accordance with the criteria above, the Head of Service will implement such action and will notify the complainant, in writing, of the reasons why they have been classified as such and the action to be taken. This notification may be copied for the information of others involved, eg Advocate, Councillor or Member of Parliament. A record must be kept for future reference of the reasons why a complainant has been classified as unreasonably persistent.

The meeting called by the Head of Service will also consist of:

- Trying to resolve matters before invoking this policy. This might be accomplished by drawing up a signed agreement with the complainant, which sets out a code of behaviour for the parties involved if the Council is to continue processing the complaint. If these terms were contravened, consideration would then be given to implementing other action.
- Declining contact with the complainant either in person, by telephone, by fax, by letter or any combination of these, provided that one form of contact is maintained.
- Notifying the complainant in writing that the Council has responded fully to the points raised and has tried to resolve the complaint, but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainants should also be notified that the correspondence is at an end and that further letters received will not be acknowledged nor answered on the matter.
- Informing the complainant that in extreme circumstances the matter will be referred to the Council's solicitors and/or the Police.
- Temporarily suspending all contact with the complainant or investigation of a complaint whilst seeking legal advice.
- Seeking advice at any time from the Health and Safety Officer and/or the Head of Legal Services.

These measures should be limited in order from the least serious to the most.

Withdrawing unreasonably persistent complainant status

From time to time the CFT will review the list of unreasonably persistent complainants and, where possible and reasonable, withdraw this status, subject to discussion with the relevant Head of Service.

Definition of unreasonably persistent complainants

Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonably persistent complainants where previous or current contact with them shows that they meet **two or more** of the following criteria:

Where complainants:

- **Persist in pursuing a complaint** where the complaints procedures have been fully and properly implemented and exhausted.
- **Change the emphasis** of a complaint or **continually raise additional issues or seek to prolong contact by continually raising further concerns or questions** upon receipt of a response whilst the complaint is being addressed. (Care must be taken not to discard new issues, which are significantly different from the original complaint. These might need to be addressed as separate complaints).
- **Are unwilling to accept documented evidence** as being factual in spite of correspondence specifically answering their questions or **do not accept that facts can sometimes be difficult to verify** when a long period of time has elapsed.
- **Do not clearly identify the precise issues** which they wish to be investigated, despite reasonable efforts to help them specify their concerns, **and/or where the concerns identified are not within the remit** of the Council to investigate.
- **Focus on a trivial matter** to the extent that this is out of proportion to its significance and continue to focus on this point. (It is recognised that determining what is a 'trivial' matter can be subjective and careful judgement must be used in applying this criteria).
- **Have threatened or used actual physical violence** towards staff at any time – this may in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented.
- Have **harassed** or been personally **abusive or verbally aggressive** on more than one occasion towards staff dealing with their complaint. (Staff must recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this. They should document all incidents of harassment. You may need to consult other Council policies and where there have been threats, violence and/or harassment.) E.g.
 - Staff Warning Register
 - Whistle blowing
 - Staff Conduct
 - Disciplinary and Grievance
- Have, in the course of addressing a complaint, had an **excessive number of contacts** with the Council placing unreasonable demands on staff. (A contact is defined as those methods of communication set out in section 2. Discretion must be used in determining the precise number of "excessive contacts" applicable under this section, using judgement based on the specific circumstances of each individual case).
- Are known to have **recorded** meetings or face-to-face/telephone **conversations without** the prior knowledge and consent of other parties involved.
- **Display unreasonable demands or expectations and fail to accept that these may be unreasonable** (e.g. insist on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice).