

Broadland District Council Unreasonably Persistent Complainants Policy

Introduction

We welcome feedback from service users and will always try to resolve complaints as quickly as possible.

The majority of complaints are dealt with through the complaints procedures without difficulty and the Complaints Policy will therefore apply to most complaints we receive. However, in a small number of cases people pursue complaints in a way that can impede the investigation of their complaint or can have significant resource implications for the council.

This policy sets out how we manage unreasonable or persistently unreasonable complaints to ensure fair, consistent, and proportionate handling. The aim is to protect the rights of individuals to complain while safeguarding staff and resources from undue pressure.

Before implementing the provisions in this policy, we will consider whether the council's procedures have been followed correctly, make sure full and reasonable responses have already been given and decide if the complainant is now unreasonable.

Policy Objectives

- To provide clear guidelines on handling unreasonable or persistent complaints.
- To ensure all complaints are dealt with fairly, transparently, and in a timely manner.
- To protect staff and public resources from unacceptable behaviour.

Definition of Unreasonable or Persistent Complainants

The Council defines unreasonable or persistent complainants as:

“Those complainants who, because of the frequency or nature of their contacts with the authority, hinder the authority's consideration of their, or other people's, complaints.”

Unreasonably persistent complainants may have legitimate complaints but be pursuing them in inappropriate ways, or they may be intent on pursuing complaints

Two Councils - One Team

which appear to have no substance, or which have already been investigated and determined.

Their contacts with us may be very emotionally charged and distressing for all involved, or they may be agreeable but still place very heavy demands on staff time.

Sometimes the situation between us and a complainant can escalate and the behaviour moves to behaviour which is unacceptable and unreasonable, for example, abusive, offensive or threatening behaviour.

In extreme situations, we may resort to involving the Police or taking legal action to address such behaviour.

Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as an unreasonably persistent complainant.

Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause them to be considered unreasonably persistent /vexatious.

Examples of unreasonably persistent complaints and unreasonable complainant behaviour

The following are examples of actions which may be considered unreasonable. This is not an exhaustive list and each case will be judged based on its individual circumstances:

- Being abusive, threatening or acting in a manner intended to intimidate staff. This includes any use of racist, sexist, homophobic or other discriminatory language.
- Putting, or threatening to put information on social media or websites which includes personal information of an organisation's employees without their consent and/or making defamatory statements about employees online.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed correspondence every few days or more often, and expecting immediate responses.
- Submitting repeat contacts or complaints with minor additions/variations which the complainant insists make these 'new' complaints.
- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process. For example, failing to provide information requested that is important for the investigation.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.

Two Councils - One Team

- Making unjustified complaints about staff who are trying to deal with the issues and seeking to have them replaced.
- Frequently changing the basis of the complaint as the investigation proceeds.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Providing false information and/ or submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints or contact about the same issue with various organisations.

Managing Unreasonable or Persistent Complainants

If a complaint is deemed unreasonable or persistent, the following staged approach may be followed:

Informal warning

An informal warning will be issued to individuals who act in an unreasonable way. This will include a clear explanation of why their complaint or behaviour is seen as unreasonable and offer an opportunity for the individual to amend their behaviour.

An informal warning can be issued verbally however, this will be followed up in writing.

Should an individual continue to act in an unreasonable way then the matter should be escalated for further consideration.

In the majority of cases an informal warning should be given before further action is taken.

Formal warning

If an individual has failed to adhere to any informal warning, then a senior manager will consider issuing the individual with a formal warning based on evidence. The senior manager will consider any evidence staff have gathered and reach their own conclusion on whether a formal warning is necessary or whether other actions may resolve the cause of any unreasonable actions. This may include:

- Exploring whether the individual requires any reasonable adjustments under the Equality Act 2010.
- Offering to meet or speak with the individual to understand any concerns that may be causing them to act in an unreasonable way.

Two Councils - One Team

- Offering mediation if the individual requires ongoing services from the organisation.

Any formal warning will be given in writing, where appropriate (taking into consideration reasonable adjustments under the Equality Act 2010) and should explain:

- The actions that have been considered unreasonable;
- A time period within which future actions will be monitored and when / how / by whom any restrictions on contact or other actions will be reviewed;
- Consequences of failing to address their actions;
- A check on whether the individual requires any reasonable adjustments under the Equality Act 2010; and
- Details of the complaints process if the individual is unhappy with their warning.

Decision to restrict contact

The decision to restrict contact with an individual should be a last resort after attempts at reconciliation and warnings have been exhausted. However, we recognise that in serious cases it may be appropriate to restrict an individual's contact with the Council without warnings being given.

Given the seriousness of the decision to restrict a person's contact, this decision will be made by the Assistant Director of the service alongside the Customer Experience and Insight Lead.

This decision will be peer reviewed by at least one other Assistant Director from another service.

However, where their unreasonable actions pose a significant risk to staff members or relate to a number of different service areas it may be appropriate to consider Council wide restrictions on contact. In this case, this decision will be reviewed and decided upon by the Managing Director or an applicable substitute.

Any decision to restrict contact will be given in writing, where appropriate (and with regard to any agreed reasonable adjustments), and will explain:

- Actions the organisation considers unreasonable;
- Examples of actions considered unreasonable;
- A time period within which future actions will be monitored; and when / how / by whom any restrictions on contact or other actions will be reviewed;
- Consequences of failing to address their actions;
- Confirmation that we have considered the individual's rights under human rights and equality act legislation; and

Two Councils - One Team

- Details of our complaints process **or** details of the Ombudsman if the complaint process has been exhausted.

Restrictions may include:

- Restricting contact to an individual named officer or generic inbox.
- Placing correspondence on file without acknowledgement or reply.
- Restricting access to certain buildings or premises controlled by the Council.
- Restricting contact to written contact only (having regard to any agreed reasonable adjustments).
- Restricting the length and frequency of telephone calls.
- Restricting access to discretionary services.

Restrictions will be tailored and proportionate to address the unreasonable actions found in each case.

Where we have decided to place correspondence on file without acknowledgement or reply we will review the contents to ensure it does not contain significant new information or raise any safeguarding concerns. However, we will not advise the individual that their correspondence contains no new information.

Reviews

When imposing this policy and placing a restriction on contact, the Council will specify a review date, usually 6 months from the initial decision.

The review will be carried out by the Assistant Director of the service and the Customer Experience and Insight Lead and will consider whether the restrictions can be lifted or modified or should continue. The complainant will be notified of the outcome of the review in writing (considering any reasonable adjustments).

Restrictions should be lifted and relationships returned to normal unless there are grounds to continue with the restrictions. If the restrictions are to continue, the Council will explain the reasons to the complainant and state when the restrictions will next be reviewed.

Further action

In a small number of cases decisions to restrict contact have no effect on a complainant's actions. In most cases, restrictions put in place will help staff to manage the impact this has on services.

However, in the most serious cases, further action may be necessary, particularly where a complainant's actions are having an adverse impact on staff welfare.

Two Councils - One Team

Where the Council is considering placing legal restrictions on an individual's contact or declining to provide a service we will seek appropriate advice.

Exemptions

The Council recognises that certain individuals may find it difficult to express their concerns, and their behaviour may not necessarily indicate unreasonableness. The policy will be applied with sensitivity, ensuring that complaints from vulnerable individuals or those with special needs are handled appropriately.

Appeals against decisions

Complainants must be informed in writing of the Council's decision resulting from application of this policy and procedure.

They should also be given information on how to appeal any decision.

An appeal will be heard by a review panel made up of:

- a member of staff outside of the service area complained about,
- Customer Experience and Insight Lead
- Assistant Director of the service.

The final decision will be made by the independent staff member outside of the service area.

The panel will write to the complainant with their decision which will be final.

The Local Government and Social Care Ombudsman has a role to examine complaints about the Council and this includes the administration of the complaints procedures and Council policies. Therefore, complainants who are dealt with under this policy and procedure should be given information on their right to contact the Local Government and Social Care Ombudsman if they feel the Council has not acted correctly in the administration of the complaint.

Recording actions and contacts with the complainant

Any decision to apply this policy must be notified to the Customer Experience and Insight Lead and recorded on the Councils unreasonably persistent complainants data repository.

The Customer Experience and Insight Lead will keep adequate records to show:

- When a decision is taken not to apply the policy when a member of staff asks for this to be done. The member of staff will be informed of the decision.

Two Councils - One Team

- When a decision is taken to make an exception to the policy.
- When a decision is taken not to put a further complaint from such a complainant through the complaints procedure for any reason.
- When a decision is taken not to respond to further correspondence, the Customer Experience and Insight Lead will make sure that any further letters, or emails from the complainant are checked to ensure that any significant new information is picked up and addressed.
- Any future contacts with the complainant must be recorded.

Related Policies

- Complaints Policy and Procedure
- Equality and Diversity Policy
- Customer Service Charter

Updated: October 2024

Review date: October 2025