



The Policy covers the Procedure for handling Unreasonably, Persistent Complainants and Unreasonable Complainant Behaviour

January 2010

Adult Social Care & Health Department

Bracknell Forest Council, Adult Social Care

Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour Policy

1. Introduction

- 1.1 Bracknell Forest Council is committed to dealing with complaints fairly, comprehensively and in accordance with the guidance from the Department of Health.
- 1.2 Dealing with a complaint is usually a straightforward process. However, in a small number of cases, people pursue their cases in ways that create excessive demands on staff and resources. This can happen while the complaint is being investigated and/or after the authority has concluded its investigations.
- 1.3 If a complainant, or the person making a complaint on their behalf, behaves in a way that that may be defined as unreasonable or unreasonably persistent, Adult Social Care will follow this policy.
- 1.4 If the presenting behaviour is **threatening, abusive or violent**, staff should refer to the Violence at Work Policy. The Council does not expect staff to tolerate unacceptable behaviour.

2 Unreasonable persistent complainants and/or or unreasonably complainant behaviour

- 2.2 Many complainants will say that in order to have their complaint addressed they have to be persistent. They may well have justified complaints and they may challenge the actions or decisions of the authority on more than one occasion. This does not necessarily mean that they should be classified as being 'unreasonably persistent'.
- 2.3 The Local Government Ombudsman's office has provided a list of the actions and behaviours of those who are likely to fall within the definition of unreasonable or unreasonably persistent. It is not an exhaustive list but it includes the following:
 - Refusing to specify the grounds of a complaint despite offers of assistance with doing so
 - Refusing to co-operate with the complaints investigation process while still wishing to have the complaint resolved
 - Refusing to accept that some issues are not within the remit of the complaints procedure even when this has been explained
 - Making 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 or commented on, or raising large numbers

of detailed but unimportant questions and insisting that 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 an MP, councillor, solicitor, the police, Ombudsman etc
- Making unnecessarily excessive demands on the time and resources of staff while the complaint is being investigated, e.g. by excessive telephoning, sending e-mails, writing lengthy complex letters every few days and expecting immediate responses to their communications
- Submitting repeat complaints after the normal processes have been completed that are essentially the same but with additions/variations which the complainant insists make them 'new' complaints that should be put through the full complaints procedures
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision (though it should be noted that this does not always mean that the complaint should not be dealt with).
- Combinations of some or all of the above

3 Considerations prior to taking action under the policy

3.1 It is reasonable for complainants to raise legitimate concerns or criticisms of the complaints procedures as it progresses. For example, they may be dissatisfied with a lack of communication or failure to meet timescales and this should not result in their being regarded as unreasonably persistent

3.2 The complainant may have special needs that have not been met and it could be that more time and effort should be spent to ensure that they are able to understand the processes and outcomes of their complaint. For example, do they have a learning disability or mental health problems? Do they need an independent advocate, or a translator? Do they have visual or hearing impairment?

3.3 The authority should be satisfied that:

- The complaint is being or has been investigated properly
- Any decision reached has been the right decision
- Communications with the complainant have been adequate
- The complainant is not providing any significant new information that might affect the decision making
- It has considered offering a face to face meeting with an appropriately senior manager

4. Options for action

4.1 Any restrictions imposed on a complainant's contact with the authority must be appropriate and proportionate

4.2 The decision to apply this policy will only be taken in exceptional circumstances and with the agreement of relevant Chief Officer's, the Complaints Manager and the Borough Solicitor.

4.3 If more than one department is involved the Council will consider setting up a strategy meeting and nominating a key person to co-ordinate the Council's response. This would normally be the Chief Officer for Customer Services. There would be a right of appeal to Director of Corporate Services or the Chief Executive.

- 4.4 The preliminary action to be taken is that the Complaints Manager should advise the complainant that their behaviour is unacceptable and that if it does not change action will be taken. This **initial notification** should be put in a letter to the complainant together with a copy of this policy and the actions the authority proposes to take if the behaviour does not alter within 10 working days

The options that the Council may take include:

- Requesting contact to be in a particular form (for example letters only)
- Requiring contact to take place with one named member of staff only
- Restricting telephone calls to specified days/times/durations
- Requiring personal contact to be in the presence of an appropriate witness
- Telling the complainant that the Council will not reply or acknowledge any further contact with him or her on the specific topic of a particular complaint (a designated member of staff will read future correspondence to assess if there is new information or a new complaint)
- Restricting access to Council premises (taking care not to interfere with statutory right such as attending council meetings)

- 4.5 The local authority at this stage can also consider:

- (a) Making an early referral to the local Government Ombudsman
- (b) Refusal to consider further advising the complainant to refer to the Local Government Ombudsman

- 4.6 These actions are not exhaustive and other factors may be relevant to the service or the complainant. For example, considerations of the complainant's age, disability, gender, race, religion may in some circumstances have a bearing

5. After a decision to restrict has been made

- 5.1 When a decision has been made to implement the policy and introduce restrictions, the Complaints Manager will write to the complainant to explain the Council's decision, the restrictions being made, how long the restrictions will last and what they can do to appeal (i.e. refer to the Local Government Ombudsman).
- 5.2 Where the complainant has special needs, it may be necessary to convey the decision in a face to face meeting
- 5.3 It should be clear that any course of action taken under this policy will only relate to contact with the council with regard to specific complaints. It should not impact on any other dealings that the complainant may have with the Council
- 5.4 Appropriate managers and staff must also be notified of any restrictions. This will be the responsibility of the Complaints Manager who will agree the list with the relevant Heads of Service.
- 5.5 Careful records must be maintained in respect of the contacts made under this policy. In particular, if there is a single point of contact, he or she will need to consider if new issues are being raised. New issues should be treated on merit and may not be subject to the restrictions

6 Reviewing the restrictions

- 6.1 Any restrictions will be reviewed, by the same managers, in line with the restrictions notified in the letter at 5.1 and at least once every 6 months. If they

disagree on whether to lift, maintain or increase the restrictions, they should refer to the Chief Officer for a final decision.

- 6.2 The complainant and relevant managers will receive written notification of the outcome of the review.

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