

Unreasonable & Unreasonably Persistent Complainants Policy

1. Dealing with a complaint is generally a straightforward process, but in a minority of cases people pursue matters in a way that hinders the Council's investigation of their complaint, and/or has a significant impact on our resources. These actions can occur both during and, perhaps more frequently, after investigation of their complaint.
2. This policy reflects the Local Government Ombudsmen's guidance on unreasonably persistent complainants and unreasonable complainant behaviour, and is based on what the Ombudsmen themselves regard as 'good practice' when dealing with such complainants.

Definitions

3. We use the terms 'unreasonable complainant', 'unreasonably persistent complainant' and 'unreasonable complainant behaviour'. For the purposes of this policy, we define an unreasonable or unreasonably persistent complainant as:

Unreasonable and unreasonably persistent complainants are those people, who because of the frequency and/or wide-ranging nature of their contact, hinder our consideration of their own, and/or other people's, complaints.

4. We recognize the need to differentiate between 'persistent' and 'unreasonably persistent' complainants, as many people who submit complaints to the Council are 'persistent' on the entirely reasonable basis that they feel we have not fully resolved their complaint, and are not prepared to leave the matter there.
5. Unreasonable and unreasonably persistent complainants may have justified complaints or grievances but pursue them in inappropriate ways, or they may be intent on pursuing complaints that appear to have no substance, or have already been fully investigated and responded to.
6. Contacts can be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved. Sometimes the situation between the Council and a complainant can escalate, and their behaviour moves from being unreasonable and unreasonably persistent to behaviour that is unacceptable – for example abusive, offensive or threatening in nature, and may then be considered under our Health & Safety and Equalities Policies.
7. Threats of physical violence to members of staff or elected members will be on most occasions referred to the police. Sussex Constabulary have advised that most referrals should be made by dialing 101 unless it is an emergency 999 situation. Also any threats of physical violence should be referred to Ian Wheeler/Vernan Findlay (Safety Advisory Team) as the complainant's details may need to be entered onto the Council's Alert

Scheme iwheeler@hastings.gov.uk, vfindlay@hastings.gov.uk . For officers working in the Community Contact Centre or Tourist Information Centre there are panic alarms that alert the police directly, when activated.

8. If a complainant's behaviour falls short of being registered on the Alert Scheme it is likely that they will be sent a letter stating that their behaviour has been unacceptable by the Safety Advisory Team.
9. 'Unreasonable complainant behaviour' might simply include one or two isolated incidents where the person has been abusive, threatening or offensive. 'Unreasonably persistent' behaviour is usually an accumulation of incidents over a longer period.
10. Raising legitimate queries regarding a complaint investigation 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, will not necessarily cause him or her to be labelled as unreasonably persistent.

Why have a policy?

11. Having a policy on unreasonably persistent complainants and unreasonable complainant behaviour allows us to act in a way that is demonstrably consistent and fair.

Examples of unreasonable and unreasonably persistent complainant behaviour

12. The examples below are some of the actions and behaviour that may lead the Council to consider a complainant as being unreasonable or unreasonably persistent.
 - Refusing to specify the grounds of a complaint, despite offers of assistance with this from staff.
 - Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
 - Refusing to accept that some issues are not within the remit of our complaint procedure, despite having been provided with information about its scope, and about any alternative methods of appeal.
 - Insisting on the complaint being dealt with in ways that are incompatible with our complaint procedure or with good practice.
 - Making what appear to be groundless complaints about the staff dealing with a complaint, and seeking to have them replaced.
 - Changing the basis of the complaint as the investigation proceeds and/or denying statements made at an earlier stage.
 - Introducing trivial or irrelevant new information that 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 or 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, or the Ombudsman.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, for example by excessive telephoning or sending emails to numerous council staff, or by writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints after an investigation has been completed, which are essentially about the same issues, but with additions/variations that the complainant insists make these 'new' complaints that should be put through the full complaint procedure.
- Refusing to accept a decision – repeatedly arguing the point and complaining about the decision.
- Aggressive behaviour – threats of violence and abusive language and behaviour towards our staff and/or elected members.
- Combinations of some or all of these.

Managing unreasonable or unreasonably persistent behaviour

13. The action we take to manage unreasonable or unreasonably persistent behaviour will be proportionate to the nature and frequency of the complainant's contacts with the authority, but may include one or several of the options below:

- Refusing to register and process further complaints about the same matter
- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example, one call on a specified morning or afternoon of any week).
- Limiting the complainant to one medium of contact (telephone, letter, email etc) and/or requiring them to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness.
- Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing them that future correspondence will not be acknowledged, but simply read by a designated officer and placed on file.
- Putting the telephone down after politely telling the called that unless they change their manner we are going to do so.
- Requesting that IT block a persistent complainant's e-mail address.

When the policy and restrictions will be applied

14. The decision to apply this policy and impose restrictions will be made by the appropriate Corporate Director. Although restrictions will usually only

apply for a specified time normally between 1-3 months, it may be considered appropriate in some situations to indefinitely continue the refusal to investigate, for example where a matter is clearly trivial or without merit, or where it has already been considered and there is no significant change.

Lifting the restrictions

15. The Corporate Director will decide if it is appropriate to lift restrictions after the specified time.

Rights of review or appeal

16. The Head of Paid Service (or deputy) will consider appeals against a decision, or about the restrictions applied. Where it is appropriate, the Head of Paid Service (or deputy) may consult with the relevant ward councillor regarding an appeal, and they will be informed of the decision in any case.

Warning prior to applying restrictions

17. Although we will normally write, e-mail or verbally inform a complainant that the Council may decide to treat them as an unreasonable or unreasonably persistent complainant if their actions continue, restrictions may be applied immediately. The restriction should be recorded.

Information given to complainants to whom this policy applies

18. If the decision is made to apply this policy, we will write to the complainant to explain that:

- The decision has been taken
- What it means for his or her contacts with the Council
- How long any restrictions will last; and
- How he or she can have the decision reviewed

We will include a copy of this policy with our letter.

Who will be informed about the decision?

19. We will tell our staff when we make a decision to implement this policy because we need to explain what restrictions have been imposed. We will also tell the Councillors for the ward where the complainant lives, and any other Councillor the person has contacted.

20. We will advise the same people if arrangements change, or when restrictions are lifted.

Relevant Policies and Acts

- **Freedom of Information Act 2000** - Section 14 of the Freedom of Information Act gives councils the right to refuse information to members of the public on the grounds that their request is vexatious or unnecessarily repeated, and should be referred to in conjunction with this policy.
- **Data Protection Act 1998** - The principles of the Data Protection Act apply to the information necessary for us to operate this policy.
- **Equal Opportunities Policy** - We seek to ensure that everyone has equal opportunity to access our services, and our Equal Opportunities Policy will apply.
- **Corporate Health and Safety Policies**