



Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour Policy

Document Control

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1.0	Original document		
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If you need this policy translated or in another format like Large Print, please contact Customer Services.

Contents

1. Policy purpose and aims
2. Definitions
3. Aggressive complainants
4. Invoking the policy
5. Potential restrictions
6. Right to appeal
7. Reviewing decisions
8. Referring cases to the Local Government Ombudsman

Appendix 1: Examples of unreasonable and unreasonably persistent behaviour

1. Policy purpose and aims

- 1.1. Winchester City Council is committed to dealing with complaints in an open and transparent way that is fair and equal to everyone.
- 1.2. On the whole, dealing with complaints is a simple process. However, there are a small number of complainants whose frequency, nature, and/or tone of their contact adversely affect our ability to do our job and provide a service to others.
- 1.3. This policy provides a framework in which to deal with such behaviour and outline cases in which special measures might be necessary in order to protect our staff and ensure the continuity of our front-line services.

2. Definitions

- 2.1. It is important to distinguish between people who make regular contact with the council because they have genuine ongoing or multiple problems, and those that are unreasonably persistent or vexatious.
- 2.2. The council has adopted the Local Government Ombudsman's definition of unreasonable behaviour:

"Unreasonable and unreasonably persistent complainants are those who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's complaints"
- 2.3. Unreasonable and unreasonably persistent complainants may be justified in complaining but be pursuing it in an inappropriate manner, or they may be intent on pursuing complaints which appear to have no substance, or which have already been investigated and concluded.

- 2.4. Unreasonable behaviour may just consist of one or two isolated incidents. Unreasonably persistent behaviour is a build-up of incidents over a longer period.
- 2.5. Unreasonable complainants can place heavy demands on staff time and impact negatively on the welfare and safety of council staff.
- 2.6. Examples of behaviour that Winchester City Council considers to be unreasonable can be found in Appendix 1.

3. Aggressive complainants

- 3.1. On occasion, a complainant can go from being unreasonably persistent to offensive, abusive or threatening. This behaviour will not be tolerated.
- 3.2. Where behaviour is so extreme that it threatens the immediate safety and welfare of council staff, Councillors, contractors, and/or third parties with whom we work, action may be taken without first having issued a warning to the complainant in writing as per section 4 of this policy.
- 3.3. All such incidents will be logged and reported to the police.
- 3.4. Examples of aggressive and wholly unacceptable behaviour include (but are not limited to):
 - Any physical violence
 - Threats of violence or harm directed to a member of staff
 - Offensive gestures or otherwise aggressive manner/body language
 - Abusive, provocative or obscene language
 - Derogatory or discriminatory abuse on the basis of ethnicity, age, religion, disability, gender identity or sexuality.
 - Harassment and other attempts to intimidate a staff member including inappropriate use of social media
 - Wilful damage to council property
 - Any other action intended to harm, intimidate or distress a member of staff.

4. Invoking the policy

- 4.1. This policy will be used as a last resort once all measures have been taken to resolve issues under the council's complaints procedure.
- 4.2. In most cases before any action is taken under this policy, we will explain to the customer by letter or email why their behaviour is unacceptable and ask them to cease their behaviour. They will be warned that if their behaviour

continues, action may be taken under this policy. They will also be sent a copy of this policy.

- 4.3. As outlined above, where an individual's behaviour is aggressive and threatens the welfare and safety of staff, action may be taken without this initial warning.
- 4.4. If the behaviour continues despite this initial warning, the Service Lead can make the decision to invoke this policy. The complainant will receive a written explanation of how this will impact their contact with us. It will also explain:
 - Why the decision has been taken
 - The length of time for which the restrictions will be in place
 - When this decision will be reviewed
 - How the complainant can appeal the decision if they disagree with it
- 4.5. Details of unreasonably persistent complainants/unreasonable complainant behaviour will only be shared with council staff who need to know in order to implement the policy and ensure staff safety.

5. Potential restrictions

- 5.1. According to the nature of the complainant's contact with the council, the following actions may be taken:
 - Requesting contact in a specific form e.g. by letter only.
 - Requesting the complainant only make contact with a specific named officer.
 - Setting the number of phone calls that will be accepted e.g. one call a week.
 - Refusing to deal with future correspondence on the same matter if a decision has already been reached.
 - Placing time limits on telephone conversations and personal contacts.
 - Requiring any personal contacts to take place in the presence of a witness and in a suitable location at an appointed time.
 - Requiring the customer to make contact only through a third party, for example a solicitor, councillor or friend acting on their behalf.

This is not an exhaustive list.

- 5.2. Any action taken will be proportionate to the nature and frequency of the complainant's contacts. Consideration will also be given to any circumstance that may be impacting the way in which the individual communicates with the council, such as a disability.
- 5.3. Any complaints about new issues from complainants subject to restrictions under this policy will be considered on their own merits.

6. Right to appeal

- 6.1. A complainant can appeal the decision to place them on the 'unreasonably persistent complainant' list within 15 days of being notified of our decision.
- 6.2. All appeals must be made in writing (either by email or letter) and sent to the Chief Executive.
- 6.3. Only arguments that relate to the restriction and not to the actual complaint or issue will be considered.
- 6.4. The result of the appeal is final. An explanation for the result will be issued to the complainant in writing.

7. Reviewing decisions

- 7.1. Any applications of this policy will be reviewed after no more than 6 months.
- 7.2. A decision to restrict contact may be reconsidered if the complainant shows a more acceptable and consistent approach in their contact with the council.
- 7.3. If the review determines that the restrictions can be lifted, the complainant will be notified in writing. They will be warned that any repeat of the previous unacceptable behaviour will result in reapplication of restrictions.

Likewise, if the restrictions are due to continue, the complainant will be notified in writing of the reasons for this and the date of the next review. This may be because the complaint in question is still being investigated.

8. Referring cases to the Local Government Ombudsman

- 8.1. There may be exceptional circumstances where the relationship between the council and an individual has broken down to a point where a resolution is not possible.
- 8.2. In these cases, we may seek to close the case without completing all stages of our complaints procedure or we may expedite the case to a final stage. If this becomes necessary, we will advise the customer of the reasons for this and the options open to them.
- 8.3. In some cases, the council may be able to refer a case directly to the Ombudsman, but this can only be done with the consent of the customer. The complainant also has the right to approach the LGSCO if they are not happy with how the Council has managed and applied 'unreasonable complainant status'.

Appendix 1: Examples of unreasonable and unreasonably persistent behaviour

Complainants - or anyone acting on their behalf - may be deemed to be vexatious, unreasonable or persistent if one or more of the following applies.

This is not an exhaustive list.

- Refusing to specify the grounds of a complaint, despite offers of assistance.
- Refusing to cooperate with the council's complaint process or insisting the complaint be dealt with in ways that are not compatible with our policy or good practice.
- Refusing to accept a complaint is outside the remit of the complaints procedure, despite being provided with information on the council's powers and responsibilities.
- Making what appear to be groundless complaints about the staff dealing with the issue and looking to have them replaced.
- Changing the basis of the complaint whilst investigation is ongoing and/or denying earlier statements.
- Raising trivial information and expecting this to be taken into account.
- Raising lots of detailed but unimportant questions and insisting they are answered.
- Refusing to provide evidence to substantiate a complaint, or adopting false identities/forging documents.
- Persistently contacting the council through different routes about the same issue.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other people involved.
- Taking an excessive 'scattergun' approach – complaining officially to the council as well as raising the same complaint with other bodies such as an MP/councillor/police/solicitors/Ombudsman.
- Making excessive demands on the time and resources of staff while a complaint is being dealt with.
- Sending an unacceptably high volume of letters, emails and/or phone calls.
- Registering repeat complaints after the complaint has been fully investigated and completed.
- Refusing to accept the final decision of a complaint.