

Unreasonable and Unreasonably Persistent Complainants and Unacceptable Behaviour Policy

Policy on Unreasonable and Unreasonably Persistent Complainants and Unacceptable Behaviour

1. Introduction

Generally, dealing with a complaint is a straight forward process and Sandwell Council values the feedback on our services that we receive through the complaints process. However, in a minority of cases people pursue their complaints in a way which is inappropriate.

A small number of people who because of the frequency or nature of their contacts with the authority hinder our consideration of either their own or other people's complaints. We refer to such complainants as 'unreasonable' or 'unreasonably persistent complainants'.

This policy is to ensure that our staff and complainants clearly understand what is expected of them and the options that are available.

If a complainant behaves in a way that is unreasonable or unreasonably persistent, the Council will follow this policy.

In a minority of cases the situation between the Council and a complainant moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example abusive, offensive or threatening. In these exceptional cases the Council may have to resort to legal action to address such behaviour.

2. Principles

The Council is committed to dealing with all complaints in an equitable, consistent and timely manner. This policy has been established to support this and to ensure that all customers are dealt with in this way.

The Council does not normally limit the contact which complainants can have with Council staff or offices.



The Council does not expect staff to tolerate unacceptable behaviour from complainants or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening.

3. Definition

The Council defines unreasonably persistent complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their or other people's complaints. The descriptions 'unreasonable' and 'unreasonably persistent', may apply separately or jointly to a particular complainant.

There is a difference between persistent complainants and unreasonably persistent complainants. The guidelines at Appendix A which accompany this policy give examples of unreasonable behaviour to help staff determine this difference. Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of the Council's decision about the complaint.

Unreasonably persistent complainants may have justified complaints or grievances but are pursuing them in inappropriate ways. Alternatively, they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and settled. Their contacts with the Council may be amicable but still place very heavy demands on staff time, or they may be distressing for all involved.

4. Decision Making Process

Before making the decision to apply this policy, some or all of the following steps may be taken:

- a) The Council will ensure that the complaint is being, or has been, investigated properly according to the Corporate Comments, Compliments and Complaints Procedure.
- b) The Council will contact the complainant to:
 - i. discuss his or her behaviour,
 - ii. explain why this behaviour is causing the Council concern,
 - iii. ask him or her to change this behaviour, and
 - iv. explain about the actions that the Council may take if his or her behaviour does not change.
- c) If the complainant has not already had a meeting about the complaint with a member or members of staff, and provided that the Council knows nothing about the complainant which would make this inadvisable, the Council will consider offering the complainant a meeting with a member of staff of appropriate seniority. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution.
- d) Further guidance is set out in the accompanying guidelines.

The decision to apply this policy:

- a) will be an exceptional step, and



- b) will be taken at Senior Officer/Head of Service level as set out in the accompanying guidelines
- c) will be appropriately recorded

5. Links to Other Policies

This policy should be used in conjunction with other relevant Council policies.

Attention should also be paid to the Council's obligations under the Human Rights Act 1998 to ensure it is within its right to take any action with regard to a persistent complainant.

6. Actions taken as a result of implementing this policy

Any restriction that is imposed on the complainant's contact with the Council will be appropriate and proportionate. The options we are most likely to consider are included in the guidelines.

When the decision has been taken to apply this policy to a complainant, the Council will contact the complainant in writing (and/or as appropriate) to explain:

- a) why the Council has taken the decision,
- b) what action the Council is taking,
- c) the duration of that action,
- d) the review process of this policy, and
- e) the right of the complainant to contact the Local Government Ombudsman.

The Council will enclose a copy of this policy and the guidelines which accompany it in the letter to the complainant, or if it is necessary that contact with the complainant is not primarily in writing, the Council will offer appropriate support to explain the policy and guidelines to the complainant.

Where a complainant continues to behave in a way which is unacceptable, the Council may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the Council may not give the complainant prior warning of that action.

New complaints from people who have come under this policy will be treated on their merits and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

The fact that a complainant is judged to be unreasonably persistent, and any restrictions imposed on the Council's contact with him or her, will be recorded and notified to those who need to know within the Council. Central records will be maintained by The Customer Feedback Team to report on the numbers of people to whom this policy has been applied and the restrictions that have been imposed.



Where relevant the Ward Member will be informed that the complainant has been designated as an unreasonably persistent complainant.

7. Review

The status of the complainant judged to be unreasonably persistent will be reviewed by a Senior Officer after six months and at the end of every subsequent six months within the period during which the policy is to apply.

The complainant will be informed of the result of this review if the decision to apply this policy to him or her has been reversed earlier than expected.

8. Referral to the Local Government Ombudsman

In some cases, relations between Councils and unreasonably persistent complainants break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there is often little purpose in following all the stages of the complaints procedure and where this occurs the Local Government Ombudsmen may be prepared to consider a complaint before the procedure has run its course. In such circumstances the Council will write to the complainant advising him/her to make contact with the Local Government Ombudsman.

Freedom of Information Enquiries

Individuals have a statutory right to request information under the provisions of the Freedom of Information Act 2000 (FOIA). However, the FOIA contains provisions that allow public authorities to decline to respond to requests deemed to be "vexatious". This provision is designed to prevent individuals using the FOIA obsessively or to harass a public authority.

If a service area reasonably believes that an FOI request could be deemed vexatious, they should contact the Council's Freedom of Information Officer for advice. Any decision to define a request as "vexatious" will take into account the formal guidance produced by the Information Commissioner.

