

Kingston-upon-Hull City Council
Children, Young People and Family Complaint
Service

Policy on Unreasonable Complainant
Behaviour & Unacceptable Complainant
Behaviour

June 2018

Hull City Council Children, Young People and Family Complaint Service

Policy on Unreasonable Complainant Behaviour

1. Policy Statement

- 1.1 Hull City Council Children, Young People & Family Complaint Service is committed to dealing with all complaints fairly, consistently and effectively and to provide a high quality of service to those who complain.
- 1.2 In doing so, they will not normally limit the contact complainants have with their offices or the Council.
- 1.3 However, there are a small number of customers who, because of their behaviour and/or because of their frequency of contact with the Local Authority, hinder us in delivering the services we provide to them or others.
- 1.4 We refer to such behaviour as '**unreasonable**' complainant behaviour.
- 1.5 When a complainant is being unreasonable, we may decide to designate their behaviour as unreasonable, and restrict their contact with the complaint service and departments when acting on behalf of the complaint service.
- 1.6 The decision to designate a complaint's behaviour as unreasonable will be taken by the Complaints Manager for the Children, Young People & Family Complaint Service, and will normally follow a warning to the complainant.
- 1.7 Any restrictions we take will be appropriate and proportionate.
- 1.8 We will also make appropriate adjustments for any equality and diversity issues, such as culture, language, and disability.
- 1.9 In all cases, we will write to the complainant and tell them why we believe their behaviour is unreasonable, what action we are taking, and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.

- 1.10 If a complainant persists in communicating with us about a complainant that has already been responded to, this includes making new complaints which are the complaint that has been responded to but with minor differences, we may decide to not enter into any further communication on this matter. In such cases, we will read all correspondence from the complainant, but unless there is any new information, we will only acknowledge it and place it on file.
- 1.11 Ultimately, we may inform the complainant that future correspondence will be read and placed on file with no acknowledgement.
- 1.12 In rare cases when complainant's behaviour becomes **unacceptable** a decision will be made to restrict, suspend or terminate the service for the complainant who will be notified in writing, the extent of the action and timescale.

2. Definition of unreasonable behaviour

- 2.1 'Unreasonable behaviour' can be one or two isolated incidents, or 'unreasonably persistent' behaviour, which is an accumulation of incidents or behaviour over a long period of time. In this policy we use the term 'unreasonable' to cover both types of behaviour.
- 2.2 In applying the definition, we differentiate between 'persistent' and 'unreasonably persistent' behaviour. For example, many people are persistent on an entirely reasonable basis, as they are pursuing a justified complaint, and they feel the Local Authority has not dealt with it properly.
- 2.3 Raising legitimate queries or criticisms of a complaint investigation as it progresses, for example, if agreed timescales are not met, should not in itself lead to someone's behaviour being regarded as unreasonable. Similarly, the fact the complainant is dissatisfied with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause their behaviour to be labelled 'unreasonably persistent'.

3. Definition of unacceptable behaviour

- 3.1 'Unacceptable behaviour' can be in the form of verbal abuse, offensive language, racist or sexist remarks, obscene gestures, threatening

behaviour, stalking and physical assault (direct contact or via an agent eg dog, object or spitting).

4. Scope of the policy

- 4.1 This policy has been developed to deal with unreasonable behaviour by complainants who have raised a complaint that is being/has been dealt with through the Children, Young People & Family Complaints Policy. This includes complaints that are processed as a Corporate Complaint due to them not being eligible to be considered via the Children, Young People & Family Complaints procedure but which are still managed by this service by virtue of their nature and the service the complaint relates to.
- 4.2 The policy does not apply to customer behaviour in relation to Freedom of Information Requests, as this is covered by separate procedures.
- 4.3 Sometimes a complainant's behaviour moves from being unreasonable to unacceptable. This includes behaviour that is abusive, offensive, threatening or violent, and also situations where employees are being harassed, or where there is a hate incident.
- 4.4 This element of the policy has been informed using the Hull City Council Work Related Violence Guidance.
- 4.5 We will protect our staff from harassment and harm. Violent and hate incidents will be reported to the Local Authority's Health & Safety Team. Where appropriate, incidents will be reported to the Police.

5. Recognising unreasonable behaviour

- 5.1 The following are examples of the main kinds of behaviours that may cause a complainant to be designated as unreasonable. The list is not exhaustive:
 - Complainant refuses to specify the grounds of a complaint, despite offers of assistance with this from Local Authority employees
 - Complainant refuses to co-operate with the investigation process while still wishing their complaint to be resolved

- Complainant refuses to accept that the issues raised are not within the scope of the Complaints Policy despite having been provided with information about the Policy's scope
- Complainant insists on the complaint being dealt with in ways that are incompatible with the Complaints Policy or with good practice
- Complainant makes what appear to be groundless complaints about the employees dealing with the complaint, and seeks to have them replaced or refuses to consider any response from them
- Complainant changes the basis of the complaint as the investigation proceeds and/or denies statements they made at an earlier stage
- Complainant introduces trivial or irrelevant new information, which they expect to be taken into account, or raises a large number of detailed but unimportant questions and insists they are all fully answered
- Complainant electronically records meetings and conversations without the prior knowledge and consent of the other persons involved
- Complainant adopts a 'scattergun' approach: pursuing a complaint with the service and, at the same time, with a Member of Parliament/ a Councillor/ Senior Managers within the local authority/ the HCPC/ local police/ solicitors/ the Ombudsman (list not exhaustive)
- Complainant makes unnecessarily excessive demands on our time and resources whilst a complaint is being looked into. For example, excessive telephoning or sending e-mails to numerous local authority employees in regards to complaints and matters of dissatisfaction, writing lengthy complex letters every few days and expecting immediate responses
- Complainant submits repeat complaints, after complaint processes have been completed, essentially about the same issues, with additions/ variations which they insist make these 'new' complaints, which should be put through the full complaints procedure
- Complainant refuses to accept the decision/outcome of a complaint – repeatedly arguing the point and complaining about the decision

- Complaints involve discriminatory and/or offensive language/ views/ behaviour
- Combinations of some or all of these

6. Recognising unacceptable behaviour

- Complainant displays behaviour directly to an employee who is involved with his complaint enquiry or acting on behalf of the Children, Young People & Family complaint service that can be considered offensive, violent (including verbally), intimidating and/or causes harassment
- Complainant expresses an intention to behave unacceptably towards a member of staff via a third party and/or uses language when discussing another member of staff or team that is offensive, violent, intimidating or would cause harassment

7. Considerations prior to taking action under the policy

7.1 Different considerations will apply depending on whether or not the complaint investigation has finished. When an investigation has finished, the local authority has the option of ending further communication about the complaint, and where appropriate, referring the customer to the Local Government & Social Care Ombudsman. However, when the complaint is still being investigated, there will need to be some contact with the complainant.

7.2 The decision to designate a complainant's behaviour as unreasonable and/or unacceptable could have serious consequences for them. So, before deciding whether the policy should be applied, the Complaints Manager must be satisfied that:

- The complaint is being or has been investigated properly
- Any decision reached on the complaint is the right one
- Communications with the complainant have been adequate

- The complainant is not providing any significant new information that might affect the local authorities view on the complaint
- Appropriate adjustments for Equality and Diversity issues have been fully taken into account and there is no reason to believe that cultural, language, or disability (including learning disability) barriers still exist which explain the behaviour of the customer

7.3 If the Complaints Manager is satisfied on these points, they should consider whether any further action is necessary before taking the decision to designate the complainant's behaviour as unreasonable. Examples of further action might be:

- One final letter to the complainant from an officer of appropriate seniority confirming that the matter has exhausted the local authority's complaint procedures, and reminding the complainant of other external routes through which they can pursue the matter, such as the Local Government & Social Care Ombudsman.
- If no meeting has taken place between officers and the complainant, and provided there is nothing known about the complainant that would make this inadvisable, consider offering the complainant a meeting with an officer of appropriate seniority. Such meetings can dispel misunderstandings and move matters towards a resolution.
- If more than one service is being contacted by the complainant, consider setting up a strategy meeting to agree a cross-service approach, and designating a key officer to co-ordinate the local authority's response.
- If the complainant has individual needs or needs a reasonable adjustment e.g. language needs, learning disability etc, an interpreter or advocate might be helpful to both parties.
- Consider discussing options for managing with managers for the service areas involved in the complaint or are being contacted by the complainant.

- 7.4 Before applying any restrictions, give the complainant a warning in writing stating that if their behaviour continues, the local authority may decide to designate their behaviour as unreasonable and explain why. It is important that the customer is given an opportunity to modify their behaviour before any restrictions are applied.
- 7.5 When a complainant has demonstrated unacceptable behaviour consideration should be given as to whether a warning in writing is appropriate before applying restrictions. This will be dependent on the circumstances surrounding the behaviour and the risk to staff.

8. Options for action

- 8.1 The action taken should be appropriate and proportionate to the nature and frequency of the complainant's contacts with the local authority.
- 8.2 The following is a list of possible options for managing a customer's interactions with the complaints service and the local authority if matters are linked to complaints.
- Placing time limits on telephone conversations and personal contacts
 - Restricting the number of telephone calls that will be taken (e.g. one call on one specified morning/afternoon of any week)
 - Limiting the customer to one type of contact (e.g. telephone, letter, email, etc) and/or requiring the customer to communicate only with one named employee, and/or limiting the location for contact
 - Drawing up a signed agreement with the complainant that sets out a code of behaviour
 - Requiring any personal contacts to take place in the presence of a witness
 - Refusing to register and process further complaints about the same matter

- Where a decision on a complaint has been made, providing the complainant with acknowledgments only, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence
- Asking the complainant to re-submit their complaint without the inclusion of discriminatory/offensive language before the complaint will be dealt with. If appropriate, refer the matter to the Police.

8.3 It is important to ensure that any contact restrictions put in place do not prevent the complainant from requesting services on a day to day basis.

9. Invoking the Policy

9.1 The Complaints Manager will convene a meeting to consider the matter. This should involve the relevant service manager/s.

9.2 Where the Complaints Manager is satisfied that the complainant has demonstrated unreasonable and/or unacceptable behaviour and that other options have been considered, the Complaints Manager will determine what action to take.

9.3 If the unreasonable behaviour is affecting more than one service, each relevant Group Manager should be consulted about whether the restrictions should be extended to their service. Agreement should be reached as to who will take the lead and communicate matters to the complainant.

9.4 The Group Manager, or agreed lead Group Manager, will write to the complainant informing them of:

- * The decision that has been taken
- * What it means for their contact with the service/s
- * How long any restrictions will last and when these will next be reviewed
- * Their right to challenge the decision in writing within 14 days, and have the decision reviewed by a more senior officer within 28 days of the date of the original decision letter.

9.5 The letter should enclose a copy of the Hull City Council Children, Young People and Family Complaint Service Policy on Unreasonable Complainant Behaviour & Unacceptable Complainant Behaviour.

9.6 In addition, the Complaints Manager and/or the Group Manager should consider whether support should be provided to employees affected by the unreasonable and/or unacceptable behaviour.

10. Records of Decisions

- 10.1 A record should be kept, by the Complaints Team, of all decisions that are taken, and the reasons for the decision.
- 10.2 A copy of the letter to the complainant and other records should be sent to the complaint service by the lead Group Manager.

11. Challenge/Review of Designation

- 11.1 If a customer wishes to challenge the decision to designate their behaviour as unreasonable, they should write to either the Complaints Manager or the Group Manager who made the decision within 14 days of the decision, setting out the reasons for the challenge.
- 11.2 In this instance, the decision should be reviewed by the Assistant City Manager for the complaint service. A letter should be sent to the complainant advising them of the outcome.
- 11.3 The decision and any restrictions should be kept under review.
- 11.4 If a complainant, whose behaviour has been deemed to be unreasonable under this policy, makes a complaint about a new issue this should be treated on its merits, and a decision will need to be taken on whether any restrictions are appropriate and necessary.
- 11.5 Arrangements should be in place to check on the complainant's contact and behaviour and to review the designation and restrictions at least once every 6 months.
- 11.6 A review meeting, if necessary, should be convened by the complaints manager to consider whether the restrictions placed on the complainant's contacts are still necessary.
- 11.7 The Complaint Manager will write to the customer informing them of the outcome of the review.
- 11.8 If the decision is to continue to apply contact restrictions for a further period, the complainant will be offered the right to challenge the decision and have the decision reviewed by a more senior officer within 28 days of the date of the review decision letter.

Further Information

For further information about the Policy on Unreasonable Complainant Behaviour & Unacceptable Complainant Behaviour contact the Children, Young People & Family Complaints Service:

Email: socialservices.complaints@hulcc.gov.uk

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