



Darlington Borough Council

Unreasonable and Unreasonably Persistent Complainants Procedure

2017

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1 **Unreasonable and Unreasonably persistent complainants**

- 1.1 Our aim is to put you first and provide you with the best possible service.
- 1.2 If you do need to make a complaint we will take your concerns seriously. We will treat you fairly and with respect and you can be confident that you will not receive a poorer service as a result. What we ask in return is that you treat our staff with the same respect.
- 1.3 We do not normally limit contact with our offices. However, if you display unreasonable behaviour, for example, offensive or threatening behaviour towards our staff we may take action to limit your contact. Similarly if you are unreasonably persistent behaviour for example, you contact our offices so many times that it hinders our handling of your complaint we may take action to limit your contact.
- 1.4 If we do find your behaviour unreasonable or unreasonably persistent we will tell you why and ask you to change it. If you continue to behave in that way, we will take action to restrict your contact with our offices.
- 1.5 We would not take action simply because you are not satisfied with the outcome of our investigation or because you refer your complaint to the Ombudsman. That is your right and pursuing your complaint through the appropriate channels is not the same as being unreasonably persistent.

1.6 **Examples of unreasonable behaviour include:**

- a) regularly shouting and raising your voice at those trying to deal with your complaint;
- b) threats of violence or any act of violence;
- c) harassment of individual Councillors or staff (including repeated threats to report to a professional body or police, defamatory comments to other professionals or bodies, repeated complaints targeting certain Councillors or staff);
- d) leaning over or physically placing your face close to the person trying to deal with your complaint;
- e) using abusive or foul language to cause offence or alarm and
- f) refusing to leave the Council premises when asked.

This list does not cover everything but provides a good idea of the kind of behaviour that is unacceptable.

1.7 One incident is unlikely to lead to the Council applying restrictions to you, although we may take steps to protect our staff. We will report any threats of violence or actual violence to the police.

1.8 **Examples of unreasonably persistent behaviour include:**

- a) refusing to agree what the complaint is about, despite offers of help from council staff;
- b) refusing to co-operate while still wanting the complaint to be resolved;
- c) refusing to accept that issues are not within the remit of a complaints procedure;
- d) insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or good practice;
- e) making what appear to be groundless complaints about the staff dealing with your complaint, and seeking to have them replaced;
- f) changing the basis of your complaint while the complaint is being looked into;
- g) denying you said things at an earlier stage of the process;
- h) introducing trivial or irrelevant new information and expecting it to be taken into account and commented on;
- i) raising large numbers of detailed but unimportant questions and insisting they are all fully answered;
- j) recording meetings or conversations without consent;
- k) adopting a 'scattergun' approach (including pursuing your complaint with the Council and, at the same time, with a Member of Parliament/Councillor/the Authority's Independent Auditor/the Standards Board/ Police/Solicitors/the Local Government Ombudsman);
- l) making unnecessarily excessive demands on staff whilst your complaint is being looked into (including excessive telephoning or sending e-mails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses);
- m) submitting repeat complaints, after the complaints process has finished (including complaining about the same issues, with additions/variations which you insist make these 'new')

complaints which should be put through the full complaints procedure) and

- n) refusing to accept the decision – repeatedly arguing the point and complaining about the decision.

This list does not cover everything but it gives a good idea of the type of behaviour which may lead to us taking action to limit a complainant's contact.

2 Being made an unreasonable or unreasonably persistent complainant

- 2.1 The decision to make you an unreasonable or unreasonably persistent complainant will be taken by the relevant Director or in cases where the issues affect more than one department by an Assistant Chief Executive. Any decision will be taken in consultation with the Borough Solicitor Assistant Director, Law and Governance.
- 2.2 We will usually warn you if we intend to make you an unreasonable or unreasonably persistent complainant.
- 2.3 If we do decide to make you an unreasonable or unreasonably persistent complainant we may restrict your contact with our offices immediately. Sometimes we may feel further action is necessary before restricting your contact with our offices. In such cases we may contact you warning you that if your actions continue we will make you an unreasonable or unreasonably persistent complainant. Alternatively we may offer you a meeting with an officer to try and clear up any misunderstandings and try and resolve the issue.
- 2.4 If we do decide to make you an unreasonable or unreasonably persistent complainant we will inform you of our decision immediately in writing. We will also send you a copy of the complaints procedure.

3 Appeal and review

- 3.1 To appeal the decision you should contact the Chief Executive within 14 days of the decision been taken.
- 3.2 Once the time period for which restrictions have been applied is up the person who took the original decision will carry out a review in consultation with the Assistant Director, Law and Governance and decide if the restrictions will continue. We will inform you in writing of the outcome of the review and if necessary when the decision will be reviewed again.

- 3.3 To appeal the decision of the review you should contact the Chief Executive within 14 days of the decision been taken.

The Chief Executive
Darlington Borough Council
Town Hall
Darlington
DL1 5QT

4 Restrictions

- 4.1 If we decide that you are an **unreasonable or** unreasonably persistent complainant we may:
- a) place time limits on telephone conversations and personal contacts;
 - b) restrict the number of telephone calls we will take (for example, one call on one specified morning/afternoon of any week);
 - c) limit you to one form of contact (for example, telephone, letter, e-mail);
 - d) require you to communicate with one named member of staff;
 - e) require any personal contacts to take place in the presence of a witness;
 - f) refuse to register and process further complaints about the same matter and
 - g) in cases where a decision has been made on the complaint, provide you with acknowledgements only of correspondence, or ultimately inform you that future correspondence will be read and placed on the file but not acknowledged.
- 4.2 If we have dealt with your complaint through all the stages of our complaints procedure and you persist in communicating with us about it, we may decide to terminate contact with you. In such cases, we will read all correspondence from you, but unless there is fresh evidence which affects our decision on your complaint we will simply acknowledge it or place it on the file with no acknowledgement.
- 4.3 We will treat any **new** complaints from **unreasonable or** unreasonably persistent complainants on their merits and decide if any restrictions we have applied are still appropriate and necessary.

5 Referring unreasonable and unreasonably persistent complainants to the Local Government Ombudsman

- 5.1 In some cases, our relationship with an unreasonable or unreasonably persistent complainant may break down while we are still investigating the complaint making achieving a satisfactory outcome unlikely. In such cases it is often pointless to go through all the stages of the Council's complaints procedure. If this does happen the Ombudsman may be prepared to consider your complaint before we have fully investigated it under our complaints procedure. This also applies to Adult and Children's Social Care complaints.
- 5.2 If we decide to make you an unreasonable or unreasonably persistent complainant you may make a complaint to the Ombudsman about the way we have treated you.

6 Records and information sharing

- 6.1 The Corporate Complaints Manager will keep a list of complainants who display unreasonable or unreasonably persistent behaviour.
- 6.2 The Corporate Complaints Manager will also keep a list of complainants we have classified as unreasonable or unreasonably persistent under this procedure.
- 6.3 The Corporate Complaints Manager may create a record relating to that individual on the Corporate Potential Risk Indicator System where appropriate.
- 6.4 The Corporate Complaints Manager will inform officers dealing with complaints if a person has displayed unreasonable or unreasonably persistent behaviour.
- 6.5 The Corporate Complaints Manager will communicate all decisions to make someone an unreasonable or unreasonably persistent complainant under this procedure to Complaints Officers, Director's Personal Assistants, Councillors, Senior Managers members of the Corporate Managers Network and Customer Services Staff.
- 6.6 In order to effectively limit contact with our offices it will be necessary to share some of your personal data with managers and frontline staff; this may include your name, age, contact details, a physical description (this will only be shared with staff working in customer services i.e. contact centre and reception areas) and details of the behaviour that has resulted in the application of the policy. All personal data will be

communicated sensitively and will be stored and processed in line with the Council's Data Protection Policy and the Data Protection Act 1998.

- 6.7 The **Corporate** Complaints Manager will keep a record of significant decisions. For example:
- a) when a decision is taken not to make someone an **unreasonable or** unreasonably persistent complainant when a member of staff asks for this to be done;
 - b) any exceptions made once restrictions have been applied;
 - c) any decisions not to put a further complaint from an **unreasonable or** unreasonably persistent complainant through the complaints procedure and
 - d) any decisions not to respond to further correspondence.
- 6.8 We may restrict an **unreasonable or** unreasonably persistent complainant's access with the Council in relation to other matters in the manner described in this policy.
- 6.9 A decision in relation to requests for information under either the Data Protection Act 1998 or the Freedom of Information Act 2000 will be dealt with in accordance with legislation and guidance from the Information Commissioner.
- 6.10 A decision to apply the policy to a complainant does not render them 'vexatious' within the meaning of s14 Freedom of Information Act 2000 which is governed by guidance issued by the Information Commissioner.