

<b>South Gloucestershire Council</b>  <b>Complaints:</b> <b>Dealing with unreasonably persistent complainants and/or unreasonable persistent behaviour.</b>	Version: 3
	Last updated: June 2020

## 1. Purpose

- 1.1 The purpose of this document is to assist officers in dealing with unreasonably persistent complainants and/or unreasonable persistent behaviour either at the outset of making a complaint, during the course of an investigation of a complaint or following the conclusion of a complaint.
- 1.2 The Council has various policies and procedures for dealing with concerns, complaints and other appeals. The application of this procedure is not restricted only to individuals who are pursuing a complaint, however its application will be considered on a case by case basis to any individual. Therefore it is important to note that for the purposes of this document the term 'complaint' and 'complainant' is not restricted only to those matters being considered through the Council's corporate feedback procedure.
- 1.3 The Council is committed to dealing with all complaints fairly and impartially, and to making our services as accessible as possible.

However a small number of individuals can as a result of their behaviour have a disproportionate impact on the time taken by officers to deal with their complaints/requests. This may be because of the nature and/or frequency of their contact with the Council. Their behaviour can also hinder the consideration of their own, or other complainants' cases.

## 2. Unacceptable behaviour

- 2.1 In line with its Customer Care Charter, the Council expects all staff to treat its customers with courtesy and respect. Likewise it expects its customers to treat its staff with courtesy and respect.
- 2.2 The Council will not tolerate rude or abusive behaviour directed at its staff. When it occurs we will take appropriate and proportionate action to protect the wellbeing of our staff and the integrity of our processes.

### **3. Unreasonably persistent complainants and/or unreasonably persistent behaviour**

- 3.1 Unreasonable and unreasonably persistent complainants may (or may not) have justified complaints or grievances but are pursuing them in inappropriate ways. They may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. Their contacts with the Council may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved.
- 3.2 Officers manage a number of customer enquiries, service requests and complaints at any one time, using their time and resources to best effect. They cannot do so if someone tries to dominate our attention with frequent, lengthy contacts and repetitive information. This hinders the consideration of their or other people's complaints or adversely impacts on service delivery. When necessary we will take action to restrict access to our services when unreasonable behaviour of this nature persists.

### **4. Actions and behaviours covered by this policy**

- 4.1 This procedure covers behaviour which is determined in accordance with this policy to be unreasonable. Unreasonably persistent behaviour will ordinarily be evidenced by an accumulation of incidents or behaviour over a period. However in very exceptional circumstances, it may be determined that an isolated incident or a couple of incidents may be determined as unreasonable or unreasonably persistent behaviour.
- 4.2 Examples of unreasonable and/or unreasonably persistent can include:
- Refusing to specify the grounds of a complaint, despite request for clarification and/or offers of assistance from Council staff.
  - Refusing to co-operate with the complaints investigation process while still wishing their complaint to be pursued/resolved.
  - Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
  - Insisting on the complaint being dealt with in ways which are incompatible with the adopted feedback procedure or with good practice.
  - Refusing to co-operate with the Investigating Officer and seeking to have them replaced.
  - Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.

- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are fully answered.
- Electronically recording meetings and conversations without the prior knowledge and consent of the persons involved.
- Adopting a ‘scattergun’ approach: pursuing a complaint or complaints with the Council and / or, at the same time, with a Member of Parliament / a Councillor / Auditor / Solicitor / Ombudsman.
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous Council staff and/or members, writing long complex letters every few days that on examination add no new information, requiring responses within unreasonable timescales.
- Submitting repeat complaints (as new complaints), that are in the opinion of the DCR to be substantially the same as complaints that have been processed via the feedback procedure, but where the complainant makes minor/irrelevant additions and/or variations.
- Refusing to accept the decision and/or repeatedly arguing the point and complaining about the decision.
- Combinations of some or all of these.

## **5. Warnings**

- 5.1 When we consider someone’s behaviour is unreasonable the relevant Departmental Complaints Representative (DCR) will explain to them in writing why we consider it to be unreasonable and ask them to change it. The letter should include a warning that if the behaviour continues, we will take action to restrict their contact with our offices.
- 5.2 Only in exceptional cases will a written warning not be provided. This includes where the individuals behaviour is so extreme that it threatens the immediate safety and welfare of staff. In the event it is determined that a warning is not appropriate, the report prepared in accordance with para 7.1 below, shall set out the reasons why no warning has been provided in this case.
- 5.3 If a member of staff considers there is a real risk to the safety and welfare of staff we may report the matter to the police and/or consider taking appropriate legal action. In such cases, we may not give the complainant prior warning. In these circumstances the relevant DCR, in conjunction with the relevant Head of Service and/or Director will determine the appropriate course of action to be taken. The relevant Head of Service is then responsible for communicating the course of action that has been taken and setting out the reasons for the decision.

## **6. Restricting access to the Council**

- 6.1 The relevant Departmental Complaints Representative (DCR) in conjunction with the relevant Head of Service will, following consideration of all relevant facts, determine whether the circumstances justify any restriction of access. They will record the reason for their decision. The reasons will be explained in writing to the person concerned. They will state how long any restriction will apply for before it is reconsidered. It may also be appropriate to advise other service areas of any departmental restrictions.

## **7. Unreasonable and/or unreasonably persistent complainant status**

- 7.1 If, despite restricting access, the complainant continues to demonstrate unreasonable behaviour, then evidence of such in the form of a written report should be passed to the Head of Legal, Governance and Democratic Services who in consultation with the Chief Executive (or in their absence their deputies) will consider what if any further action is appropriate.
- 7.2 The Chief Executive and the Head of Legal, Governance and Democratic Services will determine whether a complainant is unreasonable and/or unreasonably persistent, in accordance with the above criteria (section 4).
- 7.3 Before deciding whether the policy should be applied, the Chief Executive and the Head of Legal, Governance and Democratic Services will have to be satisfied that:
- The complaint has or is being investigated properly in accordance with the procedure;
  - Any decision reached on the complaint is an appropriate one;
  - Communication with the complainant has been adequate;
  - The complainant is not now providing any significantly new information that might affect the Council's view on the complaint.
- 7.4 The Chief Executive / Head of Legal, Governance and Democratic Services and the relevant Head of Service may decide to deal with any unreasonable and/or unreasonably persistent complainants in one or more of the following ways.
- 7.4.1 An attempt to resolve matters by drawing up a signed agreement with the complainant setting out a code of behaviour for the parties involved if the Council is to continue dealing with the complaint. If this agreement is breached consideration would then be given to implementing other actions as outlined below.
- 7.4.2 Place time limits on telephone conversations and personal contacts.

- 7.4.3 Restricting the number of telephone calls that will be taken (for example, one call on a specified morning/afternoon of any week).
- 7.4.4 Limit the complainant to one medium of contact (letter, telephone, email etc) and/or requiring the complainant to contact one named officer only.
- 7.4.5 Require any personal contacts to take place in the presence of a witness.
- 7.4.6 Notify the complainant that the Council has responded fully to the points raised and has tried to resolve the complaint, there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should be notified that correspondence is at an end and that further communications on this matter will be acknowledged but not answered. A designated officer should be assigned to read all future correspondence and maintain a file.
- 7.5 Prior to making a decision to apply the status of unreasonable and/or unreasonably persistent, the complainant must (except if para 5.2 has been applied):
- Be given 25 working days' notice, in writing, that this course of action is being considered. Working days exclude weekends and public holidays
  - Be advised in the notice that s/he is being given the opportunity to submit a written statement for consideration by the Chief Executive and Head of Legal, Governance and Democratic Services ahead of the determination meeting. The complainant should be advised that his or her written statement must be received by the Head of Legal, Governance & Democratic Services by a date specified in the notice referred to above
- 7.6 The request for the determination must be informed by an accurate chronology of contacts between the complainant and the Council.
- 7.7 If a decision is made to apply the status of unreasonable and/or unreasonably persistent to the complainant, the relevant Head of Service shall write to the complainant informing them that:
- The decision has been taken
  - What it means for his or her contacts with the Council
  - How long the restrictions will last
  - Enclose a copy of this policy

## **8. Reviewing unreasonable and/or unreasonably persistent status**

- 8.1 Once complainants have been classified as unreasonable and/or unreasonably persistent such status will continue to apply for a maximum of six months. At the end of the six month period, or before if requested by the relevant Head of

Service, the status will be reviewed by the Head of Legal, Governance and Democratic Services in conjunction with the Chief Executive.

- 8.2 The complainant must be given 10 working days' notice that a review or re – review is to take place, and shall be provided with the opportunity to submit a written statement for consideration at the review or re-review by a date specified in the notice of the review or re-review.
- 8.3 As a result of a review or re-review the status can be re-imposed for a further six months, amended or withdrawn. The complainant shall be informed in writing of the outcome of the review or re-review.
- 8.4 The review or re-review of an unreasonable and/or unreasonably persistent status must be informed by an accurate chronology of contacts between the complainant and the Council covering the period from the original designation to the time of review.

In the event a complaint is classified as a UPC this status can be withdrawn at any time if, for example, the complainant subsequently demonstrates a more reasonable approach. If the complainant submits a further complaint relating to a new matter, the normal complaints procedure will apply.

Where unreasonable and/or unreasonable persistent status is withdrawn, normal contact with complainants and application of the complaints procedure will be resumed.

For further advice and guidance on dealing with unreasonable and/or unreasonably persistent complainants please contact Customer Relations:

[CustomerCare@southglos.gov.uk](mailto:CustomerCare@southglos.gov.uk)

*Please note this procedure has been developed based on the Local Government Ombudsman's 'Policy on the management of unreasonable complainant behaviour'*