

**London Borough of Barnet**

# **Management of Unreasonable Complainant Behaviour Policy**

September 2019

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## 1. Introduction

- 1.1 A complaint is an expression of dissatisfaction of our services.
- 1.2 You can make a complaint if you are not satisfied with our service or:
  - you feel you have not been treated with courtesy or fairness
  - you are unhappy about the standard of service you have received
  - you feel we have failed to provide a service to which you are entitled
  - you are unhappy about the action taken by us.
- 1.3 Not every expression of dissatisfaction will be a complaint. If you are dissatisfied about something we have not done then you should [request](#) for us to do something. We will then deal with your request as part of our day to day business, not through our complaints process.
- 1.4 The council recognises the importance of customer complaints and welcomes them as a valuable form of feedback about our services. We will use the information gained from complaints to help improve the quality of the services we provide and our relations with our customers.
- 1.5 The council will deal with complaints impartially, objectively and professionally. We will treat complainants with respect, as we ourselves would like to be treated. Complainants and their families will not receive adverse treatment because they have made a complaint.
- 1.6 However, in some circumstances it is necessary to restrict contact between the council and complainants. We do not expect staff to tolerate unacceptable behaviour including behaviour which is abusive, offensive or threatening. In these circumstances, we will take action to protect our staff; this is what is outlined in this policy.
- 1.7 Raising legitimate queries or criticisms are not usually regarded as unreasonable. Also, if a complainant is unhappy with the outcome and seeks to challenge it, this will not result in him or her being labelled as unreasonable. Furthermore, we appreciate that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of their case rather than their attitude. However, if a complainant becomes unreasonable in an unnecessarily persistent or aggressive manner this would be considered under the Management of Unreasonable Complainant Behaviour Policy.

## 2. Examples of unreasonable actions and behaviours

- 2.1 The volume and nature of correspondence sent in by complainants can sometimes cause us problems in resolving a complaint. A complainant might, for example, inundate us with information that has already been sent in or that is not relevant to the complaint, or might write very lengthy emails raising new issues outside the scope of their original complaint or referring to different complaints in the same letter.
- 2.2 The same can be true of phone communication. Lengthy calls going over the same ground and providing no new information will distract the council from progressing the complaint. Under these circumstances, consideration will be given to informing the caller that unless any new concerns are being raised, the council have the right to terminate the telephone conversation. Please also refer to section 4 below.

- 2.3 The council provides services to all complainants and aims to respond positively to requests when reasonable, for example, providing an update on the progress of a complaint. It is deemed unacceptable to make demands upon the council if complying with it would substantially impact on the work of the council and not be a productive use of staff time.
- 2.4 Such demands include but are not limited to; repeatedly demanding a response within an unreasonable timescale, insisting on speaking to a particular member of staff when that is not possible and insisting that particular staff do or do not deal with a complaint. Such behaviour may also include repeatedly changing the substance of a complaint or raising unrelated issues. Consideration will be given to unreasonable demands on the council's time and resources and whether this policy should be invoked in full.
- 2.5 If a complainant persistently calls to discuss a complaint or to make further complaints, and this is proving time consuming and disruptive, it is reasonable for the member of staff concerned to ask the complainant to put their concerns in writing and to terminate the conversation.
- 2.6 It is also acceptable for an employee to terminate a telephone conversation if a complainant displays an unacceptable level of abuse or aggression during the conversation. The complainant will be warned and given the chance to modify their behaviour before the conversation is terminated.
- 2.7 If a call needs to be terminated as a result of the complainant's conduct, the member of staff should do so politely and keep a record of what occurred.
- 2.8 Regular calls to the same member(s) of staff prove to be time consuming and unproductive, particularly where a complainant is raising the same issues as those previously raised. Under these circumstances, it is reasonable for the council to limit such regular calls to a designated time period, e.g. 5 or 10 minutes at each contact.
- 2.9 These are just some examples of unreasonable actions and behaviours. Please note this is not an exhaustive list.
- Continuously shouting to a member of staff, swearing, threats, and name-calling. Obsessive, harassing, or prolific behaviour.
  - Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
  - Raising numerous, detailed but unimportant questions; insisting that they are answered.
  - Taking a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of other service areas or members of staff.
  - Making excessive demands on the time and resources of staff with lengthy telephone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
  - Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved. Refusing to specify the grounds of a complaint, despite offers of assistance.
  - Insisting on the complaint being dealt with in ways which are not covered within the council's complaints procedure, e.g. planning decisions.

- Changing the basis of the complaint as the investigation proceeds. Denying or changing statements made at an earlier stage.
- Refusing to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome and /or denying that an adequate response has been given.
- Covertly recording meetings and conversations.
- Making discriminatory or other inappropriate personal comments (including those which contravene the Equalities Act 2010) for example on grounds of age, disability, ethnicity, gender, gender transformation, marriage, pregnancy, religion, race, sexual orientation or sex which may cause offence.

### 3. Invoking the policy

3.1 Where a complainant displays unreasonable behaviour (as described in section 2) our policy on the Management of Unreasonable Complainant Behaviour will be invoked.

#### 3.2 Official Warning

The appropriate Head of Service will contact the complainant as soon as possible with an official warning in writing. In this warning, the Head of Service will explain why the complainant's behaviour is classed as unreasonable, and will ask the complainant to change their behaviour when contacting the council. The Director of Assurance has the power to make the decision in such circumstances where it is deemed appropriate to invoke the policy.

#### 3.3 Invocation of the policy

If the complainant does not alter their behaviour, the Head of Assurance and Business Development, will write to the complainant within ten working days to explain which measures have been put in place to restrict the complainants contact with the council. In most cases restrictions will be in place indefinitely unless specifically stated otherwise. Restrictions will usually be related to the original topic of complaint unless expressed otherwise.

3.4 These restrictions could include but are not limited to:

- Banning the complainant from making contact by telephone except through a third party.
- Banning the complainant from sending emails to individual and/or all council officers.
- Banning the complainant from accessing any council building except by appointment.
- Requiring contact to take place with one named member of staff only.
- Restricting telephone calls to specified days / times / duration.
- Requiring any personal contact to take place in the presence of an appropriate witness.
- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint, unless the complainant is supplying new evidence relevant to that complaint.

- Banning the complainant from speaking and submitting questions to any of the council's committees regarding the same issues. This is also in accordance Article 3 (Residents and Public Participation), section 3.4 (Procedure for Questions and Comments at Committees).

3.5 Where the decision has been made to restrict contact with complainants, we will clearly explain:

- Why we have taken the action
- What action we are taking
- The duration of this action
- The review process of this policy if applicable
- How to appeal (please refer to section 3 below)

3.6 The council will report any complainants who have been issued a warning or had the policy invoked in full to our senior management team, as well as informing other relevant officers across the council.

3.7 We also record such cases on the council's Customer Relationship Management system.

3.8 The council reserve the right to contact the police in circumstances in which behaviour towards staff threatens their welfare and safety.

#### **4. Right of Appeal**

4.1 All complainants have the right of appeal once the policy on the Management of Unreasonable Complainant behaviour has been invoked. An appeal can be made in writing to the Director of Assurance, the details of which will be supplied in our correspondence. In order for us to consider your appeal, you must clearly state why you disagree with the decision.

4.2 All appeals will be reviewed by the Director of Assurance. The appeal is a written process where the case history will be re-examined.

4.3 A letter will be sent to the appellant after the appeal has concluded, which will confirm the decision from the appeal.

#### **5. New complaints from complainants who have had contact reduced under the policy on the Management of Unreasonable Complainant Behaviour**

5.1 New complaints from complainants who have had this Policy invoked will be considered by the Corporate Complaints Manager and relevant service on its own merits.

5.2 Similarly, if the Management of Unreasonable Complainant Behaviour Policy has been lifted and a complainant continues to make contact with the council in a way that is deemed in continuation of previous behaviour, the council will have the right to invoke the policy in full without giving a prior warning which means contact with the council may be limited to those restrictions referenced in section two of this policy. If this happens, the council will write to the complainant to confirm this and the nature of restriction.

## **6. Further escalation in the event of continued contact under the policy on the Management of Unreasonable Complainant Behaviour**

- 6.1 Once the council has invoked this policy, if we continue to receive contact in breach of the policy, the council has a right to make an application to court for an injunction, to prevent the complainant from contacting the council unnecessarily.
- 6.2 If a complainant should make numerous frivolous claims in the courts against the council it is possible for the council to ask for an order that the claim is without merit and an abuse of process. A complainant named as a vexatious litigant may not serve claims on the council without firstly obtaining a Court's permission following consideration of the proposed claim.
- 6.3 Consideration will be given to possible exceptions to the council taking this action. For example, in the case of an extreme emergency in which the complainant needs to make contact with the council, for example, such as a fire or a gas leak at a housing tenants property.

## **7. Review**

- 7.1 Any restrictions on contact between complainants and the council will be reviewed in line with the timescales applied under this policy. If the timescales are to be extended the appellant will be informed in writing; otherwise the application of this policy will expire at the end of the allocated timescale.

## **8. Record Keeping**

- 8.1 A record will be kept of all complainants who have had the Management of Unreasonable Complainant Behaviour Policy. This will include:
  - Complaint details
  - what decision was made
  - when the decision was made and;
  - why the decision was made.
- 8.2 This record will be updated each time the decision is reviewed. Where the review has led to a decision to lift the restrictions, all the documentation relating to the restriction under this procedure will be retained for two years from the date of the review, and then destroyed.

## 9. Associated Policies / Legislation

Policy/Legislation
Corporate Complaints Policy <a href="http://www.barnet.gov.uk/complaints">www.barnet.gov.uk/complaints</a>
Adults and Communities - Statutory Complaints Policy <a href="http://www.barnet.gov.uk/adult-social-care/comments-and-complaints">www.barnet.gov.uk/adult-social-care/comments-and-complaints</a>
Children's Service - Statutory Complaints Policy <a href="http://www.barnet.gov.uk/barnet-childrens-social-care-complaints-process">www.barnet.gov.uk/barnet-childrens-social-care-complaints-process</a>
General Data Protection Regulation (GDPR) <a href="http://www.barnet.gov.uk/open-data-and-information-requests/data-protection">www.barnet.gov.uk/open-data-and-information-requests/data-protection</a>
Council Constitution: Article 3 - Residents and Public Participation <a href="https://barnet.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD330&amp;ID=330&amp;RPID=654128322">https://barnet.moderngov.co.uk/ecSDDisplay.aspx?NAME=SD330&amp;ID=330&amp;RPID=654128322</a>

## 10. Review of Policy

- 10.1 This policy will be reviewed when necessary, including following the receipt of best practice guidance from the [Local Government and Social Care Ombudsman](#). The council reserves the right to make amendments to this policy at short notice, or in any situation that warrants an immediate amendment being introduced