



Babergh & Mid Suffolk District Councils: Unreasonable and Persistent Complainant Policy

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Introduction

1. Babergh and Mid Suffolk District Councils are committed to providing high quality services and support to all our customers.
2. Occasionally a small number of complaints are recognised as coming from unreasonably persistent complainants. If this is the case, they may be categorised as unreasonable customer complaint behaviour.
3. The Local Government Ombudsman definition of an unreasonably persistent complaint is:

“Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature of frequency of their contacts with the organisation, hinder the organisation’s consideration of their, or other people’s, complaints.”

Examples of actions or behaviour of unreasonable or unreasonably persistent complainants

4. The following, non-exhaustive list, sets out examples of the action or behaviour of unreasonable, unreasonably persistent, or vexatious complainants which may cause the policy to be invoked.
 - 4.1. Refusing to specify the grounds of a complaint, despite offers of help
 - 4.2. Refusing to cooperate with the complaint’s investigation process
 - 4.3. Refusing to accept that certain issues are not within the scope of a complaint’s procedure
 - 4.4. Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice
 - 4.5. Making unjustified complaints about staff who are trying to deal with the issues and seeking to have them replaced
 - 4.6. Changing the basis of the complaint as the investigation proceeds
 - 4.7. Denying or changing statements made at an earlier stage
 - 4.8. Introducing trivial or irrelevant new information at a later stage
 - 4.9. Raising many detailed but unimportant questions, and insisting they are all answered
 - 4.10. Submitting falsified documents from themselves or others
 - 4.11. Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various organisations
 - 4.12. Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses
 - 4.13. Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints
 - 4.14. Electronically recording meetings and conversations, where the complainant has no right to do so, and without the prior knowledge or consent of the other persons involved
 - 4.15. Refusing to accept the decision; repeatedly arguing points with no new evidence
 - 4.16. Using derogatory language about staff or other persons or contractors or those providing a service, or repeatedly adopting a belligerent or unduly critical tone about individuals, in discussion or correspondence
 - 4.17. Refusing or failing to cooperate with reasonable arrangements made (or suggested) to manage complaints correspondence
 - 4.18. Seeking to encourage council staff, or those contractors to comment on each other’s statements or decisions, or to criticise each other

Considerations prior to acting

5. Different considerations may apply. These depend on whether the investigation of the complaint is ongoing or has concluded and the complainant has been signposted to the relevant ombudsman.

Termination of contact without designation

6. The councils reserve the right by exception, however, to terminate communications immediately with a complainant. This would be considered if a complainant:
 - 6.1. Acts wholly unreasonably
 - 6.2. Continues to be rude or abusive towards staff after being asked to desist
 - 6.3. Otherwise makes demands on the councils that an assistant director, strategic director or chief executive consider to be unreasonable.
7. A decision to terminate contact in this way can only be made by an assistant director, strategic director, or chief executive. In that event, the councils would notify the person (including the duration of time for which the contact would be terminated). In this instance, any further contact would be placed on file but not responded to.

Designation of a complainant

8. If an officer is concerned that someone is demonstrating unreasonably persistent behaviour, they will need to provide the information to demonstrate why this is the case, using the criteria above. The councils should be satisfied that:
 - 8.1. The complainant is being, or has been investigated properly
 - 8.2. Any decision that has been reached as to the outcome of the complaint is the right one
 - 8.3. Communications from the councils with the complainant have been adequate
 - 8.4. The complainant has not provided, and is not now providing, any significant new information that might affect the Council's view of the proper outcome of the complaint
9. In the first instance this information will be reviewed and decisions as to next steps will be made by either an assistant director, strategic director, or the chief executive alongside the customer liaison officer.
10. Any such decisions, and the reasons for these decisions will be recorded in writing.

Possible arrangements under designation

11. If a decision is taken to designate the complainant as unreasonable or unreasonably persistent, there are a number of possible arrangements that could be put in place:
 - 11.1. Placing limits on the number and duration of contacts with staff per week or month
 - 11.2. Offering a restricted time slot for necessary calls
 - 11.3. Limiting the complainant to one medium of contact (telephone, letter, email etc)
 - 11.4. Requiring the complainant to communicate only with one named member of staff
 - 11.5. Requiring any personal contacts to take place in the presence of a witness and in a suitable location
 - 11.6. Refusing to register and process further complaints about the same matter

Informing the complainant

12. The initial step would be to inform the complainant that we at present feel their behaviour may be classed as unreasonable and persistent. This provides them with an opportunity to stop the behaviour and ensure that the complaint, if needed, can be dealt with.
13. If the customer continues to demonstrate unreasonably persistent behaviour, the customer liaison officer or manager of the service area will write to the customer detailing the following:
14. The reason why the contact has been deemed as unreasonable/persistent
 - 14.1. The timescale in which the designation will last (usually 6 to 12 months)
 - 14.2. Advice regarding officers and councillors who will be informed that contact with the named complainant is being restricted, why and who will have access to this information
 - 14.3. How the complainant may appeal against this decision and within what time
 - 14.4. The potential consequence of any further, unreasonably persistent behaviour.
15. This may mean that further contacts from the complainant will result in the correspondence being acknowledged and placed on file, but not responded to unless they are able to provide new information.

Who needs to be notified of decisions taken under the policy?

16. When a person is designated, according to this policy, their details will be held electronically on the corporate unreasonably persistent complainants list. This list is managed by the customer liaison officer.
17. Unless any overriding confidentiality considerations are required, the relevant ward member will also be notified of the designation affecting one of their constituents if appropriate.

Appeal against designation

18. The complainant should appeal via the customer liaison officer at feedback@baberghmidsuffolk.gov.uk.
19. Or, alternatively, write to the customer liaison officer at:
Babergh and Mid Suffolk District Councils,
Endeavour House,
8 Russell Road,
Ipswich,
IP1 2BX.

The appeal should state the complainants' reasons for resisting the designation. All appeals need to be made within two months of designation.

20. In the event of an appeal the customer liaison officer will co-ordinate an independent review of the designation. This will be carried out by a member of the senior leadership team who were not involved in the original decision.
21. The officer conducting the review will complete it within 20 working days, unless the scale of the issues involved, or other circumstances, make this impracticable. In such an event, the officer will notify the complainant of the date in which they can expect a decision.
22. When reviewing, the reviewing officer may:
 - 22.1. Confirm the designation on the terms originally determined
 - 22.2. Confirm the designation with revised terms
 - 22.3. Lift the designation

23. Following the outcome, the complainant will be notified of the decision. If the restrictions still apply, the complainant will be informed in the decision letter of the date by which the decision will next be reviewed.
24. During the appeal and review period, the designation will remain in force, and any failure to comply with the terms and conditions stated in the designation letter may result in the complainant forfeiting their right to appeal.

Keeping adequate records of all contacts with the complainant

25. Adequate records of contacts with unreasonably persistent complainants will be maintained. For example:
 - 25.1. When a decision is taken not to apply the policy during a period of designation e.g., in circumstances where a member of staff asks for this to be done, or to make an exception to the policy once it had been applied; or
 - 25.2. When the decision is taken not to put a further complaint from such a complainant through the complaint's procedure for any reason; or
 - 25.3. When a decision is taken not to respond to further correspondence (ensuring that any further communications from the complainant are checked to pick up any new information).
26. A record and details of any of the mentioned designation processes will be maintained by a named officer.

Terminating contact with a designated complainant

27. Where a complainant has been designated but, continues to behave in a way which is unreasonably persistent manner, an assistant director, strategic director, or chief executive, may alter the terms of the designation. They could also decide to terminate contact with the complainant completely with immediate effect. In such cases any further correspondence from the complainant will be placed on file without acknowledgement.

Keep any restrictions under review

28. Any designation under this policy, and any arrangements made in relation to such a designation, will be reviewed on a six-monthly basis by the customer liaison officer and assistant director, strategic director or chief executive.
29. They will consider whether there has been any communication to the councils from the complainant in the previous six months; and, if so, review the correspondence or any other relevant information.
30. If a complainant has had no contact with the councils over that period, or if communications or contact from the complainant have not had the character of being unreasonably persistent, a decision may be taken on whether any restrictions placed on the complainant's contacts should be cancelled, reduced, or phased out.
31. The councils will not expect to take this course, however, unless its officers are reasonably satisfied that the future course of any contact or communication from the complainant will be reasonable and constructive in tone and volume.
32. Any phasing-out of restrictions over a period may be made conditional during that period. The outcome of this review will be noted on the council's records.

33. If any restrictions are reduced, phased-out or cancelled, but unreasonable behaviour recurs (whether during or after that time), the same restrictions may be reintroduced with immediate effect by the customer liaison officer with an assistant director, strategic director, or the chief executive.

What about complaints about new issues?

34. When a designated complainant makes a complaint about a new issue, unconnected to the subject matter of the previous complaint, this should be treated on its merits, unless contact with the complainant has been terminated (in which case the matter will be filed only).
35. Decisions will need to be taken, by an assistant director, strategic director, or the chief executive, as to whether any restrictions which have been applied before are still appropriate and necessary, either generally or in relation to the new matter.
36. Where a designated complainant continues to raise new complaints or issues during the period of designation, however, a review will be undertaken as to whether these amount to behaviour are a continuation of the reasons for the complainant's designation.
37. The review will be undertaken at strategic director level. If the new matter is considered to fall within the same criteria that were the reason for the original designation, or other criteria justifying designation, contact may be terminated by a strategic director or the chief executive.
38. Alternatively, no acknowledgement will be given, and no further action may be taken on the complaint or issue raised.

What happens if the complainant then complains to the ombudsman?

39. A complainant who has been designated under this policy may (where the decision has been confirmed on appeal) make a complaint to the Local Government Ombudsman about the way in which he or she considers that they have been treated.
40. If relations between the councils and a complainant who has been designated, break down badly while complaints are under investigation, or during a period of designation, and there appears to be little prospect of achieving a satisfactory or sustainable outcome, there may be little purpose in following through all stages of the councils' complaints procedure.
41. Where this occurs, the ombudsman has indicated that it may be prepared to consider complaints before complaints procedures have been exhausted.
42. This is the case even in respect of statutory complaints procedures. In that event, a strategic director or the chief executive may determine that the complainant should be referred by the councils to the ombudsman without awaiting the conclusion of any remaining part of the complaints process.

Extreme unreasonable behaviour

43. Where the behaviour of a complainant is so extreme that it threatens the immediate safety or welfare of the councils' staff (or the staff of a contractor), or any other person, the councils will consider other options, such as reporting the matter to the police, or taking legal action. In such cases, the councils need not give a complainant warning of their actions.