

BEDFORD BOROUGH COUNCIL



Unreasonable Complainants Policy & Procedure

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**Borough Hall, Cauldwell Street,
Bedford. MK42 9AP
Tel: 01234 267422
www.bedford.gov.uk**

1 Principles and Policy

- 1.1 Bedford Borough Council is committed to dealing with all complaints fairly and to providing a high quality service to those who complain.
- 1.2 The Council is committed to promoting equality of opportunity for all people. It recognises that some people have concerns about making complaints for fear of losing a service if they ‘rock the boat’ or fear of being treated unfavourably. Service users will not be harassed or victimised as a result of making a complaint.
- 1.3 Where a complainant’s behaviour hinders the consideration of the complaint the Council will act to ensure that steps are taken to manage the complaint fairly and appropriately. Each case must be considered on its own merit.
- 1.4 The Council will take steps to protect staff who are subject to abusive, offensive or threatening behaviour.

2 Objectives of the Unreasonable Complainants Procedure

- 2.1 This document sets out guidance and procedures to help staff deal with “unreasonable complainants”, these are defined for the purposes of this Policy to be people who have
 - been unreasonably persistent in making complaints; or
 - made their complaint(s) in an unreasonable manner.
- 2.2 This document explains how to decide if a complainant should be classed as unreasonable and gives advice about how their complaint should be recorded. It also lists options to help staff process such complaints or cease contact with particular complainants.
- 2.3 Unreasonably persistent complainants are those who the Council considers have complained ‘repeatedly or as a habit’ without justification. It includes those who are “vexatious”, possibly using foul and abusive language when a complaint is made, which means they were ‘irritating, annoying or causing distress’ to members of staff. A further test would be that someone complains about various unrelated issues to the extent that the complainant appears to be a complainer by nature. This policy is intended to assist in identifying and managing complaints by persons the effect of whose complaints would otherwise be disruptive to the Borough Council through pursuing an unreasonable course of conduct.
- 2.4 The term complaint in this policy covers all complaints including those made under the Borough Council’s Corporate, Children’s Social Care and Adult Social Care complaints procedures.
- 2.5 Unreasonable complaints can be a problem for Council Officers and Members. The difficulty in handling such complaints is that they are time consuming and wasteful of resources in terms of Officer and Member time and displace scarce human resources that could otherwise be spent on other Council priorities. Whilst the Borough Council endeavours to respond with patience and sympathy to the needs of all complainants, there are times

including when a person's complaints are persistent or, there is some other form of aggravation when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

3. Procedure for Dealing with Unreasonable Complainants

- 3.1 Where complainants will be considered to be unreasonable for the purposes of this Policy in accordance with the criteria set out in (Appendix A), the appropriate service area (Director or Assistant Director), having consulted the Policy & Projects Manager, will decide on both whether the complainant should be treated as "unreasonable" and also what appropriate course of action should be determined having regard to the options within Appendix B.
- 3.2 The service area (Director or Assistant Director) will notify complainants, in writing, of the reasons why their complaint has been treated as unreasonable, the action that will be taken, and their right to request a review from the Policy and Projects Manager within 14 days of the sanction being given.
- 3.3 Within 14 days of the receipt of this notification the complainant can request a review setting out why s/he considers s/he was not unreasonable. The Policy and Projects Manager will coordinate a review which will be considered by a senior officer from outside the service area.
- 3.4 Once a complainant has been determined to be unreasonable, their status will be kept under review for six months. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.
- 3.5 New complaints after the six month period will be dealt with on their merits.

Appendix A - Staff Guidance for Dealing with Unreasonable Complainants

Complainants will usually be given access to the various stages of the relevant complaints procedure. This will ensure that complainants who are persistent with their complaint have had the opportunity of rigorous scrutiny of the issues of complaint. Any decision to apply this policy to an individual must take into account the need to ensure that the complaints procedure is being fairly applied and every attempt has been made to communicate and address concerns about behaviour /conduct with the complainant.

Complainants (and/or anyone acting on their behalf) may be deemed to be unreasonable where previous or current contact with them shows that they meet any of the following criteria:

Where complainants:

- Persist in pursuing a complaint where the Borough Council's complaints process has been fully and properly implemented and exhausted.
- Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed separately.
- Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
- Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite the reasonable efforts of staff to help them specify their concerns.
- Regularly focus on matters which are not sufficiently serious to an extent which is out of proportion to their significance and continue to focus on these points. It is recognised that determining what is 'not sufficiently serious' can be subjective and careful judgement will be used by the Policy & Projects Manager in applying this criterion.
- Have threatened verbally with or without the use of foul and abusive language or by gesture or without, or used physical violence towards employees at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. The Borough Council has determined that any complainant who threatens either verbally or in writing or uses actual physical violence towards an employee will be regarded as an unreasonable complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made.
- **It should also be noted that Bedford Borough Council in consultation with the affected Officer/s will refer any actual or threatened verbal or physical abuse to Bedfordshire Police for investigation.**

- Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax or any other means. The service area (Director or Assistant Director) shall determine excessive contact taking into account the specific circumstances of each individual case.
- Have harassed or been verbally abusive towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. Some complainants may have a mental health problem and there is a need to be sensitive in circumstances of that kind.
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- Make unreasonable demands on the Borough Council and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Borough Council's complaints procedures or normal recognised practice.
- Make unreasonable complaints which impose a significant burden on the human resources of the Borough Council and where the complaint is considered:
 - not to have any serious purpose or value; or
 - to be designed to cause disruption or annoyance; or
 - to have the effect of harassing the public authority; or
 - that it can otherwise fairly be characterised as obsessive or manifestly unreasonable
- Make repetitive complaints and allegations which ignore the replies which Councils' Officers have supplied in previous correspondence.

A complainant may display one or a combination of the above examples. The list is not exhaustive and each case must be considered on its own merit.

Appendix B - Options for Dealing with “Unreasonable Complainants”

Before any decision is reached to use the options below the service area should consider the following questions:

- Has the complaint been, or is it being, investigated properly?
- Has any decision reached been the right one?
- Has communication with the complainant been timely and adequate?
- Has the complainant provided any significant new information that might affect the Council's view of the complaint?

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.

1. If no meeting has taken place with the complainant, provided the Council is unaware of anything that would make this unadvisable consider offering the complainant a meeting with an officer of appropriate seniority.
2. A letter to the complainant setting out responsibilities for the parties involved if the Borough Council is to continue processing the complaint. If its terms are contravened, consideration will then be given to implementing one or more actions as indicated below.
3. Decline contact with the complainant, either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact is maintained. This may also mean that one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of these persons.
4. Notify the complainant, in writing, that the Borough Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as an unreasonable complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.
5. Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered unreasonable, while seeking advice or guidance from its legal advisers or other relevant agencies. This temporary suspension of contact may include the blocking of e-mails from the complainant to Officers who may have been subjected to harassment (IT need to be able to carry this out).

Once a decision has been reached to use any of points 2 - 5 above the service area (Director or Assistant Director) should advise the complainant of their rights to a review of the decision (as set out in 3.2 – 3.3 above).

Any review of the decision will be considered by a senior officer from outside the service area. Any decision on a review will be communicated by the Policy & Projects Manager to the complainant in writing within a reasonable time.

Referral to the Local Government Ombudsman

In extreme cases the relationship between the complainant and the Council may breakdown. In these cases the Council may consider the following actions:

- Invite an Early Referral to the Local Government Ombudsman before all stages of the complaints procedure have been exhausted – there is scope for early referral for social care complaints. However, this can only be done with the agreement of the complainant. See staff guidance for Adults and/or Children's Services Complaints Procedure.
- Explain in writing to the complainant that the Council cannot assist them further and inform them of their right to approach the Local Government Ombudsman. This may occur when the Council does not believe the complaints are substantively valid and cannot agree a way forward with the complainant (for example, the complainant makes allegations and states they have supporting evidence but consistently fails to produce the evidence).