



ST HELENS
BOROUGH COUNCIL

Policy on dealing with abusive, persistent or vexatious complaints and complainants

August 2014



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1. Introduction

1.1 The Council has three distinctive complaint procedures;

- Corporate Complaints Procedure
- ASCH - Complaints Policy & Procedures
- CYPs – Representations & Complaints Procedure

This Policy should be applied as appropriate to each procedure as determined by the Council's Monitoring Officer.

1.2 Dealing with a complaint ought to be a straightforward process, but in a minority of cases, people pursue their complaints in a way, which can either impede the investigation of their complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint.

1.3 We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner.

1.4 We will not normally limit the contact which complainants have with council staff or offices.

1.5 We do not expect staff to tolerate unacceptable behaviour by complainants or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening and may include:-

- Using abusive or foul language on the telephone
- Using abusive or foul language face to face
- Using abusive or foul language in written correspondence
- Sending multiple emails
- Leaving multiple voicemails

1.5 We will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy.

- 1.6 Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.
- 1.7 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be regarded as vexatious or unreasonably persistent.

2. Aim of this policy

- 2.1 The aim of this policy is to contribute to our overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.
- 2.2 It sets out how we will determine which complainants will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff, staff in St Helens partner organisations and Councillors, as well as customers.
- 2.3 This policy should be read in conjunction with the Corporate Complaints Procedure, Adult Social Care & Health Complaints Policy & Procedures and the CYPs Representations & Complaints Procedures.
- 2.4 In order to ensure that the Policy remains flexible to the requirements of the Council, and future situations which may occur outside of the current detail, the Council retains the right to amend the policy accordingly by submission to the Chief Officer Group and subsequent approval process.

3. Definitions

- 3.1 We have adopted the Local Government Ombudsman's (LGO) definition of ***“unreasonable complainant behaviour”*** and ***“unreasonable persistent complaints”***
- 3.2 We define unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder the provision of our services, or our consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 3.3 Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.
- 3.4 Features of an unreasonably persistent and/or vexatious complainant are included in **Appendix A**. The list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category.

4. Imposing restrictions

- 4.1 We will ensure that the complaint is being, or has been, investigated properly according to the Council's complaints procedures, but in circumstances where unreasonable complainant behaviour is present, restrictions may be imposed as set out below.
- 4.2 In the first instance the head of service will consult with appropriate chief officer prior to issuing a warning to the complainant.
- 4.3 The head of service will contact the complainant in writing or by email to explain why this behaviour is causing concern, and ask them to change this behaviour. The head of service will explain the actions that the council may take if the behaviour does not change.
- 4.4 If the unreasonable behaviour continues, the appropriate chief officer will discuss the matter with the Monitoring Officer. In such cases as deemed appropriate by the Monitoring Officer, the Monitoring Officer will contact the complainant in writing, advising them that the way in which they will be allowed to contact us in future will be restricted. Restrictions will be tailored to deal with the individual circumstances of the complainant and examples are detailed at **Appendix B**.
- 4.5 Any restriction that is imposed on the complainant's contact with us will be appropriate and proportionate. In most cases restrictions will apply for between 3 and 6 months, but may be extended in exceptional cases. In these cases the restrictions would be reviewed on a quarterly basis, by the Monitoring Officer, and in consultation with the appropriate Chief Officer.
- 4.6 When the decision has been taken to apply this policy to a complainant, the Monitoring Officer will contact the complainant in writing to explain:
- why we have taken the decision,
 - what action we are taking,
 - the duration of that action,
 - the review process of this policy, and
 - the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as a vexatious/persistent complainant.
- 4.7 The Monitoring Officer will enclose a copy of this policy in the letter to the complainant.
- 4.8 Where a complainant continues to behave in a way which is unacceptable, the Monitoring Officer in consultation with the relevant Chief Officer, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

- 4.9 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, and or other individual, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action.
- 4.10 In considering whether to impose restrictions on a complainant, the relevant Council officers will take into account any known underlying health conditions of the complainant which may have contributed to the unacceptable behaviour. In particular, if it is believed that the complainant is a vulnerable client with additional needs, the relevant officers will seek advice from the appropriate Assistant Director in the ASCH or CYPS department. This will not necessarily preclude restrictions from being imposed in such cases, where deemed necessary

5. New complaints from complainants who are treated as abusive, vexatious or persistent

- 5.1 New complaints from people who have come under this policy will be treated on their merits. The Monitoring Officer in consultation with the appropriate chief officer, will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.
- 5.2 The fact that a complainant is regarded as unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded, and notified to those who need to know within the council and partner agencies, where considered appropriate.

6. Review

- 6.1 The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Monitoring Officer after a period of three months, and at the end of every subsequent three months within the period during which the policy is to apply, in accordance with paragraph 4.5 of this policy.
- 6.2 The complainant will be informed of the result of this review if the decision to apply this policy them has been changed or extended.

7. Referring unreasonably persistent or vexatious complainants to the Local Government Ombudsmen

- 7.1 In some cases, relations between councils and unreasonably persistent or vexatious complainants break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs the Ombudsman may be prepared to consider a complaint before the procedure has run its course.

8. Record keeping

- 8.1 Records will be retained by the Monitoring Officer including:
- The name and address of each complainant who is treated as abusive, vexatious or persistent
 - When the restriction came into force and ends
 - What the restrictions are
 - When the customer and departments were advised

Appendix A

Features of an unreasonably persistent and/or vexatious complainant

An unreasonably persistent and/or vexatious complainant may:

- 1 Have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)
- 2 Refuse to specify the grounds of a complaint despite offers of assistance
- 3 Refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- 4 Refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (eg parking ticket and planning appeals)
- 5 Refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation)
- 6 Insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint)
- 7 Make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- 8 Make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints
- 9 Make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails)
- 10 Discriminate, harass, victimise, verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language, or by the use of offensive terms and derogatory language (e.g. racist, homophobic, misogynistic, transphobic etc.)
- 11 Raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- 12 Introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
- 13 Change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- 14 Deny statements he or she made at an earlier stage in the complaint process

- 15 Electronically record meetings and conversations without the prior knowledge and consent of the other person involved
- 16 Adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the council, but at the same time with a Member of Parliament, other councils, elected councillors of this and other councils, the council's independent auditor, the police, solicitors, and the Local Government Ombudsman
- 17 Refuse 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
- 18 Make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- 19 Persistently approach the council through different routes about the same issue
- 20 Persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons
- 21 Refuse to accept documented evidence as factual
- 22 Complain about or challenge an issue based on a historic and irreversible decision or incident
- 23 Combine some or all of these features

Appendix B

Restrictions

An unreasonably persistent and/or vexatious complainant may be:

1. Advised that contact by telephone except through a third party e.g. solicitor/councillor/friend acting on their behalf, will not be accepted by the Council
2. Advised that emails to individual and/or all Council officers will not be responded to, and insisting that all correspondence should be by letter
3. Advised that they will not be allowed access to any of the Council's services e.g. libraries or leisure centres
4. Advised that they will be unable to access any council building except by prior appointment
5. Advised that their contact with the Council is to take place with one named member of staff only
6. Advised that telephone calls will be restricted to specified days/times/duration, as is appropriate
7. Advised that any personal contact will take place in the presence of an appropriate witness, as appointed by the service
8. Advised we will not reply to, or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence)