

POLICY ON DEALING WITH UNREASONABLE COMPLAINANTS AND UNACCEPTABLE BEHAVIOUR

Unreasonable Complainants

The Borough Council recognises that there may be a need to complain to the Borough Council. At the same time though, the Council is also accountable for the proper use of public money and must ensure that the money is spent wisely and achieves value for complainants and the wider public.

The Borough Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service, it will not normally limit the contact complainants have with their offices. However, the Borough Council do not expect Members or their staff to tolerate behaviour by complainants which is unacceptable - for example, behaviour which is abusive, offensive or threatening - and they will take action to protect Members and staff from that behaviour.

There are a small number of complainants who the Council classifies as “unreasonable complainants”, because the frequency of their contact with the Borough Council’s officers and/or Members is time consuming and wasteful of resources in terms of Officer and Member time and displaces scarce human resources that could otherwise be spent on other Council priorities, as well as hindering the Council’s consideration of complaints (those of other people as well as of the unreasonable complainant himself or herself). In exceptional circumstances we will take any action to limit an unreasonable complainant’s contact with both Members and officers. The decision to restrict such access will be taken by the Chief Executive and will normally follow a prior warning to the complainant. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- Requesting contact in a particular form (for example, letter only);
- Requiring contact to take place with a named officer;
- Restricting telephone calls to specified days and times and/or
- Asking the complainant to enter into an agreement about their future contacts with us..

In all cases where we have decided to treat someone as an unreasonable complainant, we will write to tell the complainant why we believe his or her behaviour falls into this category, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it. Within 7 days of the receipt of the notification the complainant can request a review setting out why s/he considers s/he was not unreasonable. If we decide to carry on treating

someone as an unreasonable complainant and we are still investigating their complaint six months later, we will carry out a review and decide if restrictions will continue.

Once a complainant has been determined to be unreasonable, their status will be kept under review for six months.

Where a complainant whose case is closed persists in communicating with us about it, we may decide to terminate contact with the complainant. In such cases, we will read all correspondence from that complainant, but unless there is fresh evidence which affects our decision on the complaint we will simply acknowledge it or place it on the file with no acknowledgement.

New complaints from people who have come under the unreasonable complainants' policy will be treated on their merits.

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;
- 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).

Unacceptable Behaviour

The Council will adopt a similar approach to what it deems to be unacceptable behaviour. When we consider that a complainant's behaviour is unacceptable, we will tell them why we find their behaviour unreasonable and we will ask them to change it. If the unacceptable behaviour continues, we will take action to restrict the complainant's contact with both Members and our officers.

The decision to restrict such access will be taken by the Leader and the Chief Executive and will normally follow a prior warning to the complainant. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- Requesting contact in a particular form (for example, letters only);



- Requiring contact to take place with a named officer;
- Restricting calls to specified days and times; and/or
- Asking the complainant to enter into an agreement about their conduct.

In all cases, we will write to tell the complainant why we believe his or her behaviour is unacceptable, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it.

Where a complainant continues to behave in a way which is unacceptable, we may decide to terminate contact with that complainant and discontinue any investigation into their complaint

Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Borough Council's Members and staff, we will consider other options, for example reporting the matter to the Police and/or taking legal action. In such cases we may not give the complainant prior warning of that action. In those types of case it is also likely that we would add the complainant to the Council's Violent and Threatening Behaviour Database which is a computerised database that contains names and/or addresses of persons who have initiated incidents of violent, aggressive and threatening behaviour against East Staffordshire Borough Council employees or whilst on Council premises. If a complainant is added to that database we will write to advise them that this is the case.

Examples of unreasonable complainants or unacceptable behaviour where complainants:

- Persist in pursuing a complaint where the Borough Council's complaints process had 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 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 Principal Democratic Services Officer 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;
- Have, in the course of addressing a registered complaint, had an excessive number of contacts to the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax or other means.
- Having 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.

It should be noted that East Staffordshire Borough Council, in consultation with the affected officer/s, will refer any actual or threatened verbal or physical abuse to Staffordshire Police for investigation.