

TONBRIDGE & MALLING BOROUGH COUNCIL

POLICY ON MANAGING UNREASONABLE ACTIONS BY COMPLAINANTS

Tonbridge & Malling Borough Council recognises that sometimes things can go wrong and someone may have cause to complain. Complaints are important as we can learn from them and improve our services. We deal with complaints fairly, impartially, objectively, professionally and in confidence. We do our best to solve problems and make sure they don't happen again. Where a complaint is justified we apologise and take corrective action.

We are also accountable for the proper use of public money and must ensure that money is spent wisely and achieves value for all residents of the Borough, including complainants. We have therefore adopted a clearly defined complaints procedure.

In order to respond professionally and with high quality customer care to the full range of complaints, our complaints procedure has 2 stages. If still not satisfied after Stage 2, complainants may take their complaint to the Local Government & Social Care Ombudsman (LGSCO), an independent national service that investigates complaints against councils and other public service providers. However, the LGSCO requires that complainants first complain to the organisation concerned so as to give them a chance to put things right. Complainants should usually therefore go through all stages of the Council's complaints procedure before referring the matter to the LGSCO.

However, in a minority of cases individuals interact with services in a way that is unreasonable. This behaviour may include one or two isolated incidents, as well as unreasonably persistent actions which are usually a build-up of incidents or behaviour over a longer period. This can prevent the Council from providing services to the individual and to others and have a significant impact on staff wellbeing.

This policy covers 'unreasonable actions'. It uses the definition contained within the guidance of the LGSCO (attached) as follows

'unreasonable actions are those which, because of the nature or frequency of contact with an organisation, hinder the organisation's delivery of services or consideration of complaints.'

There is no exhaustive list of actions that may be unreasonable as each case should be judged based on its circumstances. The following are examples of actions which may be considered unreasonable:

- Being abusive, threatening or acting in a manner intended to intimidate staff. This includes any use of racist, sexist, homophobic or other discriminatory language.
- Putting, or threatening to put information on social media or websites which includes personal information of an organisation's employees without their consent and/or making defamatory statements about employees online.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed correspondence every few days or more often, and expecting immediate responses.
- Submitting repeat contacts or complaints with minor additions/variations which the complainant insists make these 'new' complaints.
- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process. For example, failing to provide information requested that is important for the investigation.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Frequently changing the basis of the complaint as the investigation proceeds.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Providing false information and/ or submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints or contact about the same issue with various organisations

The Council will consider whether there are any underlying explanations for the unreasonable actions of individuals. This could be due to unmet communication or support needs so the Council will have regard to the duty to make reasonable adjustments under the Equality Act 2010.

Informal warning

Council staff are empowered to informally warn individuals of the consequences of their actions in the first instance. This will give the complainant time to reflect on their actions and an opportunity to modify it. Staff are also empowered to take immediate action in response to unreasonable actions where appropriate. For example, staff are empowered to terminate phone calls, ask an individual to leave Council premises or pause communications.

If an individual continues to act in an unreasonable way then the matter will be escalated to a formal warning.

Formal warning

If an individual has failed to adhere to any informal warning from staff then service managers will consider issuing the individual with a formal warning based on evidence.

Service managers will consider any evidence staff have gathered and reach their own conclusion on whether a formal warning is necessary or whether other actions may resolve the cause of any unreasonable actions. This may include:

- Exploring whether the individual requires any reasonable adjustments under the Equality Act 2010.
- Offering to meet or speak with the individual to understand any concerns that may be causing them to act in an unreasonable way.
- Offering mediation if the individual requires ongoing services from the organisation.

Any formal warning should be given in writing, where appropriate, and will explain:

- Actions the Council considers unreasonable;
- Examples of actions considered unreasonable;
- A time period within which future actions will be monitored and when / how / by whom any restrictions on contact or other actions will be reviewed;
- Consequences of failing to address their actions;
- A check on whether the individual requires any reasonable adjustments under the Equality Act 2010; and
- Details of the Council's complaints process if the person is unhappy with their warning.

Decision to restrict contact

The decision to restrict contact with an individual will be taken either by the Chief Executive or by a Director with responsibility for the service in question. A decision to restrict contact will be a last resort after other warnings or attempts at resolution have been exhausted.

The options we are most likely to consider may include:

- Restricting contact to an individual named officer or generic inbox.
- Placing correspondence on file without acknowledgement or reply. Where this restriction is considered appropriate
- Restricting access to certain buildings or premises controlled by the organisation.
- Restricting contact to written contact only (having regard to any agreed reasonable adjustments).
- Restricting the length and frequency of telephone calls.

- Restricting access to discretionary services.

Restrictions will be tailored and proportionate to address the unreasonable actions found in each case. In most cases it will be sufficient to restrict access to the service subject to unreasonable actions. However, where their unreasonable actions pose a significant risk to staff members or relate to a number of different service areas it may be appropriate to consider council-wide restrictions on contact.

In some cases, we recognise that placing restrictions on an individual's contact with the Council may have an adverse impact upon others. We will consider this when reaching a decision on what restrictions are appropriate and take steps to mitigate against it.

In all cases where we decide to treat someone's actions as unreasonable, we will write to them to tell them why we believe their actions fall into that category, what it means for his or her contacts with the organisation, how long any limits will last and what they can do to have the decision reviewed. A copy of this policy will be supplied to complainants in such cases.

In appropriate cases, we may take the following steps

- Offer the complainant a meeting with an officer of appropriate seniority to explore steps for resolution of the complaint and explain why their current actions are seen as unreasonable;
- Help the complainant to find a suitable independent advocate e.g. if the complainant has different needs

Reviews

When imposing a restriction on contact, this will be reviewed after the time period within which the Council said it would monitor further actions. The time period will depend on the actions of the individual and any previous decisions to restrict contact. In all cases the restrictions will be reviewed at least every 12 months.

A complainant wishing to appeal against a decision to categorise their actions as unreasonable or unreasonably persistent and/ or any particular restrictions applied may appeal to the Chief Executive.

Records will be kept of the following:-

- When a decision has been taken to apply this policy;
- When a decision has been taken not to apply the policy when a member of staff asks for this to be done;
- When a decision is made to make an exception to the policy once it has been applied;

- When a decision is taken not to put a further complaint from a complainant through the Council's complaints procedure for any reason;
- When a decision is taken not to respond to any further correspondence, copies of any further letters or emails have been checked to pick up any significant new information.

Records will normally be retained for a period of 6 years.

Further action

In a very small number of cases decisions to restrict contact have no effect on the actions of an individual. In the most serious cases, further action may be necessary e.g. if the actions of an individual are having an adverse effect on staff welfare. This action may include reporting the matter to the Police or taking legal action, and may be taken without prior warning.