



TONBRIDGE AND MALLING BOROUGH COUNCIL

POLICY ON MANAGING UNREASONABLE BEHAVIOUR

Tonbridge and 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 three stages:

- **Stage 1** covers the entirely, or reasonably, straightforward complaints;
- **Stage 2** covers those complaints where the complainant remains dissatisfied after Stage 1 or where the complaint concerns a very complex matter;
- **Stage 3** covers those complaints where the complainant remains dissatisfied after Stage 2 or where the complaint concerns a very serious matter.

If still not satisfied after Stage 3, complainants may take their complaint to the Local Government Ombudsman (LGO), an independent national service that investigates complaints against councils and other public service providers. However, the LGO 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 LGO.

However, in a minority of cases people pursue their complaints in a way that is unreasonable. This behaviour may include one or two isolated incidents, as well as 'unreasonably persistent behaviour' which is usually a build-up of incidents or behaviour over a longer period. This can impede investigating their complaint (or complaints by others) and can have significant resource implications for the council.

This policy covers 'unreasonable complainant behaviour'. It uses the definition contained within the guidance of the LGO (attached) as follows

'unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints.'

Examples of the actions and behaviour that might activate this policy are shown below:

- Refusing to specify the grounds of a complaint, despite offers of help
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- 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.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various organisations.
- 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.
- Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

This list is not exclusive and other actions and behaviour may lead to activation of the policy in a given case.

The decision to categorise someone as unreasonable or unreasonably persistent will be taken either by the Chief Executive or by a Director with responsibility for the service in question.

The options we are most likely to consider include:

- Placing limits on the number and duration of contacts with staff per week or month
- Offering a restricted time slot for necessary calls
- Limiting the complainant to one medium of contact (telephone, email, letter etc)
- Requiring the complainant to communicate only with one named member of staff;

- Requiring any personal contacts to take place in the presence of a witness and in a suitable location
- Refusing to register and process further complaints about the same matter.

In all cases where we decide to treat someone as an unreasonable or unreasonably persistent complainant, we will write to them to tell them why we believe their behaviour falls 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 behaviour is seen as unreasonable
- Helping the complainant to find a suitable independent advocate e.g. if the complainant has different needs

When imposing a restriction on access, this will ordinarily be reviewed after a period of three months. This period may be shorter or longer depending upon the particular circumstances that led to the restriction but the complainant will be advised of the review period and the outcome of any review in each case.

A complainant wishing to appeal against a decision to categorise them 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 two years.