



Unreasonable and Unreasonably Persistent Complainant Procedure

Lewes District Council
Eastbourne Borough Council
Eastbourne Homes Limited

Introduction

The procedure described in this document aims to ensure that complainants are dealt with in a fair and consistent way, once they have progressed through the complaints procedure. It also outlines the expectations the Council has of both officers and complainants when they are handling or pursuing complaints.

This procedure is not and should never be seen as a quick solution to sever all contact with a complainant because it suits an officer to do so. Officers will need to provide evidence in support of their requests so that an informed judgement can be made.

It is important to note that judgements will only be made on the specific behaviour displayed by a complainant, on a particular matter. We have a duty to respond to new service requests and non related expressions of dissatisfaction made by the complainant, irrespective of whether we have previously assessed their behaviour to be unreasonable. One particular issue should not cloud our judgement on future dealings with that complainant; all should be judged on their own merit.

Unreasonable Persistence

Sometimes being persistent is the only way to make yourself heard. However, when this persistence goes beyond all reasonableness and continues even when a complaint or request has been addressed appropriately, then the Council will consider it to be unreasonable.

The procedure below describes what the Council will do if it believes your behaviour to be unreasonably persistent and what you can expect to happen.

What the officer dealing with your complaint will do if they believe that your behaviour is unreasonably persistent

1. In order to refer a complainant's behaviour as unreasonably persistent an officer must first ensure a number of factors have been satisfied. These are:
 - that they are familiar with the Councils' complaints procedure
 - that they are familiar with this procedure and the internal staff guidance
 - that the procedure for dealing with complaints has been followed, and all the complainants issues and concerns have been addressed at first and/or second stage
 - that they have exhausted all internal avenues to resolve the issues and can provide evidence in support of their actions
 - that they consider the complainant is displaying the types of behaviour outlined by the Local Government Ombudsman as "unreasonably persistent"
 - they have advised the complainant to refer their complaint to the Local Government Ombudsman, or an alternative appropriate body
 - that the complaint file is up to date, contains file notes of any interaction with the complainant, and is a complete account of the actions taken to resolve the matter
2. Once an officer is satisfied they have reached the point where no more can be done they should prepare a report. The report should clearly but concisely set out the interaction between the complainant and the Council, and identify evidence in support of the case. In the report, the officer should request that the complainants behaviour is declared unreasonably persistent and for the file to be closed. This report together with the complaint file should be referred to the Head of Service.
3. The officer must also send a letter to the complainant. This should explain that the officer will be seeking advice on whether continuing to correspond with the complainant, on the particular issue, is in the best interest of both parties. This

letter should also provide the complainant with a reasonable date by which they can expect to receive a reply on the outcome and who that reply will be from.

What the Head of Service will do when they receive a request to declare behaviour unreasonably persistent

4. On receiving a report and file the Head of Service should review the evidence provided within ten working days. It is up to the discretion of the Head of Service to either make a decision based purely upon the evidence presented, or after discussing the case with the officer. Heads of Service can also discuss the case with their Director.

What the Head of Service will do once they have made a decision.

5. When a complainant's behaviour is declared *unreasonably persistent*, the Head of Service will write to the individual and:
 - advise the complainant of the decision
 - explain the reasons why the decision has been made providing examples of their behaviour
 - repeat advice previously given in cases where the complainant has an alternative body to raise their issues with, and/or the Local Government Ombudsman
 - inform the complainant that the file will be closed and that future correspondence will not be entered into regarding this subject
 - advise and assure the complainant that future unrelated concerns will be dealt with in accordance to the Council's policy and procedures
 - where appropriate explain to the complainant that Councillors will be notified
 - provide details of how to appeal against their behaviour being declared unreasonably persistent

Or

6. When a complainant's behaviour is declared *acceptably persistent*, the Head of Service will write to the individual and:
 - advise the complainant of the decision
 - explain the reasons why the decision has been made
 - repeat advice previously given in cases where the complainant has an alternative body to raise their issues with, and/or the Local Government Ombudsman

- inform the complainant that the complaint has been reassigned to a new investigating officer
 - advise if there has been any impact on the timescales attached to their complaint
 - advise and assure the complainant that future unrelated concerns will be dealt with in accordance to the Council's policy and procedures
7. Irrespective of the decision the Head of Service makes, they must ensure that the officers who were dealing with the complainant are informed of the decision, together with their line manager.

Unreasonable Behaviour

If you feel you have cause to make a complaint to the Council then we understand that you will believe that the Council has done something wrong or failed you in some way. The Council recognises that sometimes it can get things wrong and has a robust complaints procedure in place to handle this.

It is important to understand that if the behaviour accompanying the making and pursuit of a complaint becomes obstructive to the Councils' ability to consider and/or action the complaint or another customers' service request then your behaviour may be deemed unreasonable. This should not be confused with unacceptable behaviour (the threat of, or actual verbal, physical or discriminatory abuse) is dealt with under the Customer of Concern policy and procedures.

What an officer will do if they believe your behaviour is unreasonable

8. In order to refer a complainant's behaviour as unreasonable an officer must first ensure a number of factors have been satisfied. These are:
 - that they are familiar with the Councils' complaints procedure
 - that they are familiar with this procedure
 - that they have made every effort to assist the complainant with their issue(s) or clearly explained that the issue(s) are outside the scope of the complaints procedure
 - that they consider the complainant is displaying unreasonable behaviour
 - that the behaviour of the complainant is severely hampering the officer's ability to assist and resolve the issue
 - that a complaint file has been opened and is up to date, contains file notes of any interaction with the complainant and, is a complete account of the actions taken to resolve the matter
9. Once an officer reaches the stage where they consider efforts to assist the complainant are being significantly hampered by the complainants behaviour, they should prepare a covering report which contains evidence in support of their case. The report should provide details of the complainant's behaviour, the actions already taken by officers to resolve the issue(s) and outline the reasons why it is felt the investigation and/or assistance can't reasonably be continued.
10. The report, together with the complaint file should be referred to the officer's Head of Service with a request that the complainant's behaviour be declared unreasonable.

11. The officer must also send a letter to the complainant. This should explain that the officer will be seeking advice on whether continuing to correspond with the complainant, on the particular issue, is in the best interest of both parties. This letter should include a reference to the ten working days which the Head of Service has to come to a decision.

What the Head of Service will do when they receive a request to declare behaviour as unreasonable

12. On receiving the report, file and request the Head of Service should review the evidence provided within ten working days.
13. It is up to the discretion of the Head of Service to either make a decision based purely upon the evidence presented, or after discussing the case with the officer. They may also choose to discuss the case with their Director. The Head of Service may also contact other managers with the sole objective to find out whether the complainant is in contact, or has been in contact with other services on the same or very similar matter.
14. Depending on the nature of the described behaviour the Head of Service has a number of options to consider, these are:
 - should the complainant's contact with the officer be restricted in any way i.e. request that the complainant only makes contact with the officer on a prescribed day and time of the week – this would need to be agreed with the complainant to avoid prescribing a time that is not suitable
 - should the complainants contact with other officers be restricted i.e. where a complainant makes regular contact with a number of officers on the same or similar matter, the complainant can be designated one officer to contact only. This Officer will co-ordinate the Council's efforts to resolve the issue(s)
 - should the complainant be assigned another member of the team to deal with, this could be the line-manager
 - should the style of contact be prescribed i.e. letter only
 - should the complainant be asked to sign a contract in regard to their conduct i.e. agree a formal way forward outlining the type of behaviour which would be considered appropriate i.e. to only deal with the appointed officer at the prescribed times in the prescribed manner
 - setting reasonable time periods against the restrictions so that normal contact can be resumed after an appropriate period of time (maximum duration of a restriction is six months)

What the Head of Service will do once they have made a decision

15. When a complainant's behaviour is declared *unreasonable*, the Head of Service will write to the complainant and:

- advise the complainant of the decision
- clearly explain the reasons why the decision has been made providing examples of the behaviour and how this impacts upon the Council's ability to respond effectively
- outline any restrictions being imposed (where appropriate) or action to be taken
- provide details of the duration of the restrictions and/or action to be taken (where relevant) and that these restrictions only apply to the issues of concern
- explain that other divisions have been notified of these restrictions/actions where it is known that the complainant has made contact with other officers about the same or very similar matter
- where appropriate explain to the complainant that Councillors have been notified
- provide details of how the complainant can appeal against being declared unreasonable

16. The Head of Service should also ensure that the Corporate Health and Safety Officer, Customer Contact Manager and Neighbourhood First Manager are informed of the decision.

Or

17. When a complainant's behaviour is declared *reasonable*, the Head of Service will write to the complainant and:

- advise the complainant of the decision
- explain the reasons why the decision has been made
- repeat advice previously given in cases where the complainant has an alternative body to raise their issues with, and/or the Local Government Ombudsman
- inform the complainant that the complaint has been reassigned to a new investigating officer
- advise if there has been any impact on the timescales attached to their complaint
- advise and assure the complainant that future unrelated concerns will be dealt with in accordance to the Council's policy and procedures

18. Irrespective of the decision the Head of Service makes, they must ensure that the officers who were dealing with the complainant are informed of the decision, together with their line manager.

Appealing against a decision

A complainant can appeal against our decisions. They can do this by writing to the Head of Service for Business Planning and Performance. They should appeal in writing within ten days from the date of the decision letter.

Verbal or 'in person' appeals will not be accepted unless there are exceptional circumstances, for instance, if a complainant is unable to write they can ask a family member, friend or colleague to assist them. An officer of the Council is unable to assist in this process.

1. When an appeal is received the Head of Service for Business Planning and Performance will:
 - log the appeal and confirm its receipt to the appellant within five working days
 - contact the decision making Head of Service and request the complaint file and/or any associated documents
 - read through all paperwork provided by the Head of Service and the appellant and reach a decision
 - advise the appellant of their findings and decision and explain that this is a final part of the process
 - advise the appellant that they may appeal to the Local Government Ombudsman and provide details of how to do so
 - advise the Head of Service of their findings and decision
2. Where necessary the Head of Service for Business Planning and Performance will discuss any areas of concern with the decision making Head of Service. The Head of Service for Business Planning and Performance may also speak with other officers involved with the complaint, or any other officers involved with the decision making process. The Head of Service for Business Planning and Performance must be satisfied that they have reached an informed decision as their decision is final.
3. The complainant has the right to raise their concerns with the Local Government Ombudsman, who may wish to carry out their own investigation and who is at liberty to challenge and/or overturn our decision.