

Persistent complainants policy

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1. Introduction

- 1.1 Complaints about Portsmouth City Council are processed in accordance with the complaints policy. Council staff inevitably come into contact with a small number of complainants who take up an unwarranted amount of council resources or impede the investigation of their complaint. The aim of this policy is to identify situations where the complainant could be considered vexatious or persistent and how to deal with such situations.

This guidance also reflects the “Guidance note on ‘unreasonably persistent’ complainants and ‘unreasonable complainant behaviour’” issued by the Local Government Ombudsman in January 2007.

- 1.2 It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It must be recognised that complainants may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.
- 1.3 This policy does not apply to complaints in respect of councillors. Guidance on how to proceed with a complaint about a councillor can be found at www.portsmouth.gov.uk/yourcouncil/8242.html

2. Definition of persistent complainants

- 2.1 Unreasonable and unreasonably persistent complainants may have justified complaints or grievances but are pursuing them in inappropriate ways, or they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined.
- 2.2 Sometimes the situation between the council and a complainant can escalate and the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable for example, abusive, offensive or threatening.
- 2.3 Complainants may be deemed to be vexatious as a result of their unreasonable behaviour where current or previous contact with them shows that they have met one or more of the following criteria:
- Persisting in pursuing a complaint where the council's complaints procedure has been fully and properly implemented and exhausted, including the Local Government Ombudsman.
 - The substance of a complaint is changed or new issues are raised persistently or complainants seek to prolong contact by unreasonably raising further concerns although care must be taken not to disregard new issues, which differ significantly from the original complaint.
 - Complainants are unwilling to accept documented evidence of facts or deny receipt of an adequate response despite correspondence specifically answering their questions/concerns. This could also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
 - Complainants refuse to specify or do not clearly identify the precise issues or grounds they wish to be investigated despite reasonable efforts to help them.
 - Complainants have, in the course of pursuing a registered complaint, had an excessive number of contacts (or unreasonably made multiple complaints) with the council placing unreasonable demands on council employees. Such contacts may be in person, by telephone, letter, fax or electronically. Discretion must be exercised

in deciding how many contacts are required to qualify as excessive, using judgement based on the specific circumstances of each individual case.

- Complainants have harassed, been abusive, verbally aggressive, threatening or bullying on one or more occasions towards staff dealing with their complaint – directly or indirectly – or their families and /or associates. All incidents of harassment or aggression must be documented, dated and reported to the line manager.
- Complainants making unnecessarily excessive demands on the time and resources of the council or its staff whilst a complaint is being looked into, by excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Complainant refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Complainant making what appears to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
- Complainant adopting a “scattergun” approach: pursuing a complaint or complaints with the authority and at the same time with a Member of Parliament/a councillor/the authority's independent auditor/ the Standards Board/local police/solicitors/the Ombudsman.
- Combination of some or all of these.

2.4 Complaints may be deemed to be vexatious in any situation where physical violence has been used or threatened towards staff or their families/associates at any time. This will cause personal contact with the complainant to be discontinued and the complaint will, thereafter, only be pursued through written communication. All such incidents should be documented and reported in accordance with the violence at work policy.

3. Managing persistent complainants

3.1 If a complainant's persistence adversely affects our ability to do our work and provide a service to others, we may need to manage their unacceptable behaviour by restricting their contact with our offices.

3.2 Any restrictions applied will be appropriate and proportionate to the nature of the complainant's contacts with the council at that time, such as:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken (for example one call on one specified morning/afternoon of any week).
- Limiting the complainant to one medium of contact (telephone, letter, email etc).
- Requiring a complainant to communicate only with a named employee.
- Involving the police in cases where we believe the complainant has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assaults threatened, or where the complainant refuses repeated requests to leave council premises.

3.3 Wherever possible, we seek to apply restrictions in a way, which will allow a complaint to progress to completion through the complaints process.

4. Deciding to restrict complainant contact

4.1 Before making any decision to restrict contact, the complainant will, whenever possible, be warned that, if the specified behaviour or actions continue, we will consider apply some or all of the restrictions set above.

- 4.2 Decisions about applying this policy will only be taken after careful consideration of the situation by a manager or head of service.
- 4.3 He/she will consider whether:
- the complainant is raising legitimate concerns
 - the complaint is or has been investigated properly
 - any decision reached is the right one
 - communications with the complainant have been adequate
 - any circumstances that relate to the complainants mental health, age, gender, sexual orientation, belief or disability have been considered
- 4.4 In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other complainants and employees do not suffer any disadvantage and the resources of the council are used effectively as possible.
- 4.5 Where this policy is applied the complainant will be told in writing why a decision has been made to restrict future contact, the restricted contact arrangements, if relevant, the length of time that these restrictions will be in place and what they can do to have the decision reviewed.

5. Appealing a decision to restrict contact

- 5.1 A complainant can appeal a decision to restrict contact. The appeal will be considered by the head of service or designated senior manager who has not been involved in the original decision. They will advise the complainant in writing whether the restricted contact arrangements still apply or a different course of action has been agreed.

6. Recording and reviewing decisions

- 6.1 When it is decided to restrict contact, a note will be sent to all departments involved and a record made on the persons file and any relevant computer records.
- 6.2 Any further correspondence from the complainant will still be read to pick up any significant new information.
- 6.3 If the complainant makes any new complaints about new issues these will be treated on their merits and a decision will have to be made by the manager whether any restrictions, which have been applied before, are still appropriate or necessary.
- 6.4 A decision to restrict contact may be reconsidered if the complainant demonstrates a more acceptable approach.