

## **HUNTINGDONSHIRE DISTRICT COUNCIL**

### **POLICY ON THE MANAGEMENT OF UNREASONABLE COMPLAINANT BEHAVIOUR**

#### **1. Introduction**

1.1 Huntingdonshire District Council (HDC) is committed to becoming more efficient and effective in the way it delivers services and has a policy\* and procedures for responding to complaints (as well as compliments and suggestions). All employees will be trained to respond to the needs of all our customers, especially when they feel the need to register a complaint. However, the Council recognises that, on occasion, a complainant may feel that a complaint has not been resolved to his / her satisfaction. In a minority of cases members of the public pursue their complaints in a way that is unreasonable. They may behave unacceptably, or be unreasonably persistent in their contacts and submission of information. This can impede the investigation of their complaint (or complaints by others) and can have significant resource issues for the Council. These actions can occur either while their complaint is being investigated, or once the Council has concluded the complaint investigation.

1.2 This policy is designed to prevent duplication and abortive work by employees who may otherwise continue to respond to complainants about “closed” complaints and protect the Council’s employees from harassment and harm. The purpose of this document is to provide employees with a framework and potential steps that can be taken to manage unreasonable complainants in a consistent and professional manner. The policy is intended only for use in exceptional circumstances, when all other measures have failed to resolve matters.

1.3 The Council’s process has been informed by the guidance issued by the Information Commissioner to establish the status of vexatious information requests. The Freedom of Information Act has specific provision (section 14) to manage requests for information that may be determined as vexatious. This is a separate statutory process which falls outside of the determination of vexatious complaints or complainants under the Council’s own procedures

#### **2. Identification of an Unreasonable Complainant**

2.1 For the purposes of this policy, unreasonable complainant behaviour may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually an accumulation of incidents or behaviour over a longer period. Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with the Council, hinder the Council’s consideration of their or other people’s, complaints.

2.2 Some complainants may have justified complaints but may pursue them in inappropriate ways. Others may pursue complaints which appear to have no substance or which have already been investigated and determined. Their contacts with the Council may be amicable but still place very heavy demands on staff time, or they may be very

emotionally charged and distressing for all involved.

2.3 It is not necessary to meet a complainant's unreasonable demands or to answer every point in an unreasonable letter. But judgement is required to separate legitimate queries from those that are unreasonable, often within the same complaint.

2.4 A persistent and / or vexatious complainant is a member of the public who complains repeatedly about issues that he / she considers to be within the remit of the Council. The complaints may become persistent, vexatious or repetitive. The complainant may, despite having had an original complaint investigated and been notified of the result, not accept that the matter is concluded. The complainant will, as determined by the Corporate Team Manager, have exhausted the internal complaints procedure.

2.5 Very occasionally complainants also act deceitfully by forging documents, making covert recordings of meetings, adopting false identities and so on. Such behaviour is unacceptable and managing it can become a distraction from consideration of the original substance of complaint.

2.6 Situations can escalate and, in a few cases, complainants become abusive, offensive, threatening or otherwise behave unacceptably. In response the Council may have to invoke procedures for protecting its employees from harassment and harm.

2.7 It is important to recognise that a letter or other form of communication seeking information, confirmation or explanation on any other matter will not be regarded as a complaint and should not be dealt with under the terms of the complaints procedure.

2.8 To decide whether a complaint is unreasonable it will be necessary to look at its context and take into account all the facts of the case. Any action taken as a result of this policy should aim to minimise the impact on employees without unreasonably restricting access to the public services that we provide. This is particularly relevant where staff suspect that the person's behaviour may be related to physical or mental well-being. This policy will only be implemented following careful consideration by the Corporate Team Manager.

### **3. Examples of Unreasonable Actions and Behaviours**

Single incidents may be unacceptable, but more often problems arise as a result of unreasonably persistent behaviour, which is time consuming to manage and interferes with proper consideration of the complaint. The most difficult types of unreasonable complaints to manage are those that are slightly different from the original complaint but about the same broad issue. However, these are some of the actions and behaviours that the Council may regard as being unreasonable:

- Refusing to specify the grounds of a complaint, despite offers of assistance.
- Refusing to co-operate 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 numerous, detailed but unimportant questions; insisting they are all answered.
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of organisations or departments within the Council.
- 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 that the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

#### **4. Key Questions**

There are some key questions that may help in establishing whether a complainant is becoming unreasonable:

- Has the Council's Customer Feedback Policy been correctly implemented i.e. no material element of the complaint has been overlooked or inadequately addressed?
- Does the complaint have no value and no serious purpose;
- Has the complainant suffered an injustice?
- Does the continued consideration of the complaint generate significant burden on the service in terms of time or cost?
- Has an equitable approach been followed; the customer may have special needs that may make it harder for them to express themselves?
- Is there an overriding requirement involving the welfare responsibilities of the Council to the customer?
- Does the complaint represent a continuation of a pattern of behaviour of thematic complaints which could reasonably be seen as obsessive?

#### **5. Human Rights and Equalities**

In implementing this policy the Council will seek to ensure that its actions are in accordance with its obligations under the Equality Act and Human Rights Act. The Council will also take into account its policies on such matters as health and safety, staff welfare, harassment, codes of conduct for staff, disciplinary procedures, complaints policy, Freedom of Information requests, and so on.

#### **6. Options for Action**

6.1 Any actions the Council takes will be proportionate to the nature and frequency of a complainant's current contacts. The objective is to manage the complainant's unreasonable behaviour in such a way that their complaint can be brought to a conclusion briskly, without further distractions. When it is necessary to designate a complainant as behaving unreasonably, the Council will consider the following options:

- Offering the complainant a meeting with an officer of appropriate seniority to explore scope for a resolution of the complaint and explain why their current behaviour is seen as being unreasonable.
- Sharing this policy with a complainant and warning him / her that restrictive actions may need to be applied if the behaviour continues.

- Setting up a strategy meeting to agree a cross- departmental approach.
- Designating a key officer to co-ordinate the Council’s response(s).
- Helping the complainant to find suitable independent advocates, especially if the complainant has different needs.
- 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, letter, email etc).
- Requiring the complainant to communicate only with one named member of staff as a single point of contact (SPOC).
- 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.

## 7. Procedure

7.1 Should an employee form the view that a complainant is behaving unreasonably; the matter should be referred as soon as possible to the Corporate Team Manager.

7.2 The Corporate Team Manager will consider whether the Policy on the Management of Unreasonable Complainant Behaviour should be applied to the complainant. Before deciding to apply this policy, the Corporate Team Manager should ensure that the complainant has exhausted the internal complaints policy and has been notified of the opportunity available to refer the complaint to another body - see also paragraphs 7.4 and 10.1.

7.3 If a complaint is being dealt with under this policy, this information should be shared in confidence with relevant officers within other sections of the Council to ensure that, where necessary, the response to the complainant is coordinated and consistent.

7.4 When a complainant has exhausted the procedure in the internal complaints policy and continues to express dissatisfaction with the authority’s final response to the complaint, the complainant should be reminded of his / her right to refer the complaint to one or more of the appropriate independent bodies, e.g.:-

- The Local Government Ombudsman (LGO)
- The Information Commissioner (ICO)

7.5 In addition, the complainant should be reminded of his / her right to obtain independent professional advice.

7.6 Where the complainant has not referred the complaint to the appropriate independent body, the Corporate Team Manager should advise the complainant as follows: -

*“...Your complaint has now been fully addressed through the Council’s internal complaints procedure and will not be pursued further by the Council. If you remain dissatisfied with the Council’s decision, however, you may wish to refer the matter to the Local Government Ombudsman (or other relevant independent body) who will consider your complaint. The Ombudsman for this area may be contacted by Phone: 0300 061 0614 or Web: [www.lgo.org.uk](http://www.lgo.org.uk).”*

7.7 When a complaint has been determined by the Ombudsman or other relevant independent body, and the complainant continues to communicate with the Council about

the complaint, the Corporate Team Manager should advise the complainant as follows:-

*“... Your most recent correspondence does not appear to raise any issues which have not already been responded to. Your complaint has been dealt with under the Council’s own internal complaints procedure and has also been investigated by the Local Government Ombudsman (or other relevant independent body). I consider therefore that the matter has now been fully addressed through the procedures available and, unless you are able to provide new and substantive information in support of your complaint, the Council intend to take no further action in this matter.”*

7.8 The Corporate Team Manager will determine, taking the complainant’s behaviour and circumstances into account, which of the actions specified in paragraph 6, or any other actions, the Council will take to manage a complainant’s unreasonable or unreasonably persistent behaviour. If a decision is taken to apply restricted access, the Council should write to the complainant with a copy of the policy and explain:

- Why the decision has been taken
- What it means for his or her contacts with the organisation
- How long any restrictions will last, and
- What the complainant can do to have the decision reviewed.

7.9 The Council should keep adequate records to show:

- When a decision is taken not to apply the policy when a member of staff asks for this to be done, or
- When a decision is taken to make an exception to the policy once it has been applied, or
- When a decision is taken not to put a further complaint from this complainant through your complaints procedure for any reason, and
- When a decision is taken not to respond to further correspondence, make sure any further communication from the complainant are checked to pick up any significant new information.

7.10 The Council should endeavour to ensure that any fresh complaint is not overlooked or that a complainant who is the subject of this policy is not now providing any significant new information that might affect the Council’s view on the complaint. Where a decision has been made to restrict access, the complainant should be informed that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information. A designated officer should be identified who will read future correspondence. Notes should be attached to and remain with any file, record or account of the complainant, detailing the matter which has been so closed.

7.11 When complaints about new issues are made, these should be treated on their merits. If this occurs, the Council will consider whether any restrictions previously applied are still appropriate and necessary.

## **8. Reviewing Decisions to Restrict Access**

8.1. When imposing a restriction on access, the Council will specify a review date. On review, restrictions will be lifted and relationships returned to normal unless there are good grounds to extend the restrictions.

8.2 The Council will inform the complainant of the outcome of the review. If restrictions

are to continue, the reasons will be explained and the date on which the restrictions will next be reviewed will be stated.

## **9. Referring Complainants to the Local Government Ombudsman**

9.1 Relations between the Council and complainants sometimes break down while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there may be nothing to gain from following through all stages of the Council's complaints procedure. In these circumstances, the Local Government Ombudsman may, exceptionally, be prepared to consider complaints before complaints procedures have been exhausted, if the request is made by both sides to the dispute.

9.2 In addition, a complainant who has been treated as behaving unreasonably may make a complaint to the Local Government Ombudsman about it.

## **10. Variation to Procedure**

Where the Corporate Team Manager is satisfied that a complaint is unreasonable, they may authorise a variation to the Council's internal complaints policy and procedure and permit the complaint to be dealt with by a Senior Manager, whose decision will be final. Thereafter the internal complaints policy and procedure will be deemed to be exhausted and the complainant reminded of the contents of paragraphs 7.2 and 7.4.

## **11. Complaint against Corporate Team Manager**

In the case of a complaint against the actions or decision of the Corporate Team Manager, this would be dealt with by the Managing Director.

## **12. Questions of Interpretation of the Policy**

Any questions regarding the interpretation of this policy should be addressed to the Corporate Team Manager whose decision will be final.

*\*available at <http://www.huntingdonshire.gov.uk/complaints>, by contacting the District Council on (01480) 388388 or By writing to the District Council at:- Huntingdonshire District Council, Pathfinder House, St. Mary's Street, Huntingdon, Cambs, PE29 3TN*

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