

Persistent & Prolific Complaints Handling Procedure

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Change History

Version	Date	Description	Change ID
1	August 2003	Protocol for managing vexatious social care complainants	
2	January 2007	Protocol for the management of persistent and/or unreasonably prolific complainants	
3	June 2008	Persistent Complainants Procedure	
4	May 2014	Persistent & Prolific Complaints Handling Procedure	
5	September 2018	Reviewed and updated contents	

Related Documents

Reference	Title	Tier
	Corporate Complaints Policy	1
	Corporate Complaints Procedure	2



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1. Purpose

- 1.1. To identify complainants who are unreasonable or unreasonably persistent in pursuit of their complaint, and/or prolific complainants, and manage their complaints appropriately.
- 1.2. To ensure that all complainants are treated equitably and on an individual basis.
- 1.3. To ensure that access to the complaints process as a mechanism for representation is not unlawfully barred, while ensuring that the process is not misused.
- 1.4. To ensure that individual needs are considered when deciding on a suitable approach to dealing with persistent and/or prolific complaints.
- 1.5. To avoid perpetuating correspondence or contact which is time consuming and not helpful to the complainant, other complainants, and the staff of the Council.

2. Applicability

- 2.1. This procedure shall apply to all employees of West Berkshire District Council, including elected members, contract, agency and other temporary staff, volunteers and employees of partner organizations working with West Berkshire Council, with the exception of schools staff, and it is the responsibility of managers to ensure that these groups are made aware of this procedure.
- 2.2. Schools are excluded from this Procedure and some functions within Social Care services may be different from those outlined here. If you work in these services and are in any doubt then please contact your Complaints Officer (see list in Appendix 1).

3. Roles and Responsibilities

- 3.1. The Chief Executive has overall responsibility for ensuring that the Corporate Complaints Process is managed appropriately in accordance with this agreed Procedure.
- 3.2. The Head of Strategic Support, in association with the Complaints Manager in Strategic Support, and the relevant posts for Children's Social Care and Adult Social Care complaints are responsible for:
 - Directing and reviewing this procedure.
 - Ensuring that there is effective consultation and communication on complaints related matters.
 - Publishing & Promoting the adoption of this Procedure.
 - Ensuring compliance with published standards, procedures, working practices and technology changes.
- 3.3. The Heads of Service and designated complaints officers within the Services are responsible for the day-to-day management of complaints including ensuring implementation of this procedure.
- 3.4. All Council staff are responsible for familiarizing themselves with, and ensuring that they comply with this procedure.

4. Defining Unreasonable Complaints

- 4.1. Unreasonable and unreasonably persistent complainants may have justified complaints or grievances but be 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. 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.
- 4.2. However, raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as an unreasonably persistent complainant.
- 4.3. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labeled unreasonably persistent. Responding to reasonable expressions of dissatisfaction and requests for information should not cause staff particular problems.
- 4.4. Behaviour which may lead to a complaint being considered as unreasonable may include some of the issues listed below.
 - 4.4.1 Refusing to specify the grounds for their complaint, offering evidential information to support the complaint which is then not provided, or changing the substance of the complaint while the complaint is under investigation.
 - 4.4.2 Introducing irrelevant or trivial issues into their complaint, or raising a large number of detailed but unimportant questions and insisting these are answered in detail.
 - 4.4.3 Refusing to accept that aspects of their complaint are not within the scope of the procedure, (for example, when another route, such as an Appeal, is open to them), or insisting complaints are dealt with in ways not compatible with the complaints procedure or good practice.
 - 4.4.4 Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
 - 4.4.5 Making unsupported complaints against staff dealing with the complaint and/or asking that they be replaced, or escalating a complaint to a more senior officer after receipt of a response with which they disagree.
 - 4.4.6 Pursuing a complaint or complaints with the council, and while the complaint is in progress, either contacting different staff about the same or similar issues, or contacting other organizations or individuals such as a Member of Parliament, a councillor, the authority's independent auditor, the Standards Board, local police, solicitors, etc.
 - 4.4.7 Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being investigated, by, for example, excessive telephoning or sending emails to numerous council staff, or writing lengthy complex letters every few days and expecting immediate responses.

4.4.8 Submitting repeat complaints, after the complaints process has been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.

4.4.9 Despite all attempts to resolve the case, refusing to accept the Council's or the Ombudsman's decision, and repeatedly arguing the point or complaining about the decision. This can include continuing to correspond with stakeholders on the same issue after the final decision has been reached, insisting that the Council has not dealt with the issue to their satisfaction, or asking for specific action to be taken to resolve the complaint.

4.4.10 Whilst abusive correspondence or phone calls from a complainant are not always an indicator that the complaint is unreasonable, in the interests of staff safety and under the Council's duty of care, steps should always be taken to manage a complainant who becomes abusive towards staff. See S10.2 of the Corporate Complaints Procedure which sets out the Council's position regarding abusive behavior from complainants or representatives.

4.4.11 Prolific complaints are a range of (usually minor) complaints from the same person, but around a number of different subjects. While prolific complaints can be managed as in sections 5 and 6 (below) care should be taken to ensure that no substantive matters are being raised. Prolific complaints may be fast tracked directly to a Stage 2 response to ensure that the complaint is offered an opportunity to refer their complaint to the Ombudsman without creating a resource burden on the Council.

5. Resolving and managing unreasonable complaints

- 5.1. The complaints officer for that Service with the relevant senior manager will determine the point at which a complaint is considered as prolific and/or persistent, following the criteria identified above. Where the complaint includes more than one service this will be done in consultation so that both services are party to the decision to identify a complaint as persistent or prolific.
- 5.2. The complaints officer will ensure each complaint is thoroughly assessed to ensure no items are overlooked and all issues raised have been previously addressed, where necessary in consultation with the other service's complaints officer.
- 5.3. The complaint will be discussed between the complaints officer and the relevant manager, and a decision reached as to how future complaints around the same subject will be managed.
- 5.4. A letter will be drafted to the complainant setting out the key elements of the proposed future management of representations, and this will be signed and sent by the Senior Manager, Head of Service or Director as appropriate.
- 5.5. A copy of the above letter and any notes regarding the decision will be retained on file, and all relevant staff likely to receive contacts will be notified of any actions they are required to take in the future – such as logging calls, not discussing the case, etc.

5.6. The decision will be reviewed at least at six monthly intervals, and the complainant notified of this action.

6. Management Plans

6.1. Options available to manage unreasonably persistent or prolific complainants can include:

6.2. Explanation: Make clear to the complainant why their behavior is unreasonable, and ways to amend it, before taking more formal action. In some cases close liaison with all relevant professionals will be necessary to reach an appropriate and co-ordinated decision. This is good practice and should be done in all cases where complaints cut across service or partnership boundaries.

6.3. Co-ordination: Designate a key officer as the single point of contact (SPOC) for the complainant. This ensures that all concerns and issues can be reviewed centrally and any new issues identified and acted upon. It also reduces the resource burden on other staff. Advise the complainant of the SPOC's role and contact details, also advise other staff who may continue to receive correspondence or calls, of this process. All future representations and communications from the complainant regarding their issues subject to complaint will be fed through this officer to ensure all responses are co-ordinated and provide the same clear answers.

6.4. Correspondence: Ensure that new issues raised are quickly passed on to the appropriate staff team to ensure speedy resolution and a quick and firm response.

6.4.1 Where correspondence includes or develops into requests for information (RFI's), these will be passed through the Freedom of Information process. This includes a process for deciding where a request for information becomes repeated or vexatious, and is separate to the allocation of persistent/prolific status to a complainant.

6.4.2 If the amount of correspondence is particularly large, the service may decide to collate all representations together, and acknowledge these and respond to these on an agreed regular basis – perhaps weekly or fortnightly – the time-scale in each case to be determined, recorded as part of the management plan, and adhered to, and the complainant being advised of this approach.

6.4.3 In very exceptional circumstances the service/s may decide to decline to respond to further representations from the complainant on old issues. If this is the case then the complainant **must** be advised of this, with reasons. This advice should include an indication that all correspondence will be read, and information passed on as relevant to inform and advise the relevant officers, but that no response will be provided in future.

6.4.4 If this strategy is adopted, care must be taken to scrutinise all future representations from the complainant to identify new issues that do need to be followed up formally with the complainant or be accepted into the complaints procedure, and this should always be done with the involvement of the relevant complaints officer(s). The complainant should be made aware that this will be done.

- 6.5 Record keeping: The complaints officer should keep on record copies of correspondence to and from the complainant. Where complainants are abusive or threaten officers, a formal written record must be provided by all staff of all contacts made by the complainant, making careful record of any abusive behaviour or threats – preferably recording actual words used where possible. The complaints officer(s) or SPOC should keep a file of all these record sheets as evidence of the complainant’s behaviour as this may be required for legal purposes at a later date. See 6.7 (below).
- 6.6 Staffing: Ensure all staff involved are aware of the arrangements to manage the complainant’s issues.
- 6.6.1 Where required, the management of the complainant and case to date will be scrutinised by an appropriate senior manager to identify any staff training issues which need to be addressed – and any training must be progressed.
- 6.6.2 Where required, the case may be included as a specific item for routine inclusion in the supervision sessions of involved staff.
- 6.6.3 Where required, senior managers must ensure that all staff dealing with the complainant will be considered, on an individual basis, to identify any person who may need support to alleviate or minimise their own stress or anxiety – and that this support will be provided.
- 6.6.4 Ward Members or MPs may also be subject to persistent correspondence. Where appropriate they should be engaged in the management process by the complaints officer so that they understand how the complainant’s issues are being addressed, and who to contact about correspondence.
- 6.7 Managing Behavioural Issues
- 6.7.1 If the complainant’s behaviour is abusive or provocative, the Council may determine that only written representation (by letter) will be acceptable, explaining why, and also explaining who to address any written representation to. Where this is not possible arrangements should be made for a named member of staff to take detail of complaints.
- 6.7.2 Other specified single routes for representation may be determined, such as e-mail or calls to an answer phone during certain times, etc.
- 6.7.3 If the complainant presents himself/herself regularly at a particular building and behaves inappropriately, the above advice may be instigated to prevent face-to-face confrontation.
- 6.7.4 If the complainant behaves in a particularly aggressive or confrontational manner the Council will consider implementation of their staff harassment procedures. This will include processes for managing harassment by multiple email ‘spamming’, or multiple phone calls to services, if this occurs. This may need to be instigated across other partners or services to avoid transference of the problem.

- 6.8 Managing Representation on Behalf of Others: If the person making representation is purporting to do so on behalf of another person and this individual proves unwilling to have the representation progressed by the third party - the person making representation is barred from the process. Staff must ensure that the client is able to access the complaints procedure for himself/herself should they so wish, including advising them that an advocate could be found to support/assist any complaint should this be necessary. Staff should also make a full record of any discussions. Representatives who become abusive or threaten staff should be managed in accordance with the procedures outlined in S10.2 of the Corporate Complaints Procedure.
- 6.9 Other Issues: Legal responsibilities – if there are any legal or statutory issues the service must involve Legal Services to ensure that all duties and responsibilities have been fulfilled, and that all relevant decisions made are well founded and robust. All complaints issued from solicitors or legal firms on behalf of a complainant **must** be discussed with Legal Services. The service may identify other specific actions that may contribute to better future management of the individual – for example not listing at the foot of a letter to the complainant all the people the letter is copied to, as this has been known to escalate the circle of contact and circulation used by the complainant.

7. Further information

- 7.1. Copies of the Complaints and Stage 2; 'Your Right to a review' leaflets and the Local Government & Social Care Ombudsman's leaflet, and the staff guide 'Corporate Complaints: Guidance for Staff' are available from the Information Management Team www.info.westberks.gov.uk/complaints
- 7.2. The Personal Safety of Staff Policy can be accessed here: <http://intranet/CHttpHandler.ashx?id=30737>
- 7.3. Guidance on Managing Violence and Aggression against Staff can be found here: <http://intranet/CHttpHandler.ashx?id=30738>

For enquiries relating to this procedure, contact:
The Complaints Manager
Strategic Support
Email: Complaints@westberks.gov.uk