



POLICY ON DEALING WITH PERSISTENT COMPLAINANTS

Introduction

This policy sets out our approach to the very few complainants who persistently use our complaints procedure to the extent that it becomes impossible to operate effectively.

Persistent complainants are those whose contacts with the council, by their frequency, nature or tone significantly hinder the consideration of their own or other people's complaints. Complainant's includes anyone acting on behalf of a service user or who contacts our offices in connection with a complaint.

The principles set out in this policy also apply to our dealings with people other than complainants.

We seek to:

- Put the customer at the heart of all we do
- Ensure fair and open access for all residents, visitors and members of the business community to our services including those in our community who are hard to reach or have difficulty in dealing with us as an authority
- Provide a prompt and responsive service, ensuring that our communications are clear and available in a variety of formats and languages to suit our customer needs
- Make it clear to all complainants, both at initial contact and throughout their dealings with us, what we can or cannot do in relation to their complaint. In doing so, we aim to be open and not raise hopes or expectations that we cannot meet.
- Deal fairly, honestly, consistently and appropriately with all complainants, including those who we consider to be persistent complainants. We believe that all complainants have the right to be heard, understood and respected. We also consider that our employees* have the same rights.
- Provide a service that is accessible to all complainants. However, we retain the right, where we consider the actions of persistent complainants to be unacceptable, to restrict or change access to our service
- Ensure other complainants and our employees do not suffer any disadvantage from persistent complainants
- Ensure the resources of the Council are used as effectively as possible.

We recognise that the persistent complainant may have a genuine grievance and that being persistent can be a positive advantage when pursuing a complaint. However, it is the nature of their actions which is the problem. Examples of the behaviour of persistent complainants are listed in Appendix 1.

Managing Persistent Complainants

There are relatively few complainants whose persistence we consider unacceptable. How we aim to manage these complainants will depend upon their nature and extent. If their 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.

Any restrictions applied will be appropriate and proportionate to the nature of the complainant's contacts with the council at that time. The following are examples of the types of restriction which may be used:

- 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)

*** The term 'employee(s)' means employees, elected members, service users, partner organisations, volunteers or contractors for the purposes of this policy.**

- limiting the complainant to one medium of contact (telephone, letter, e-mail etc)
- requiring the complainant to communicate only with a named employee
- if a complaint is currently going through the council's complaints procedure, asking the complainant to enter into a written agreement about their future conduct if the complaint is to be progressed
- requiring any personal contacts to take place in the presence of a witness
- closing the investigation into a complaint
- refusing to register and process further complaints providing the complainant with acknowledgements only of further letters, faxes, or e-mails received after a particular point
- banning a complainant from some or all of our premises
- 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 assault is threatened, or where the complainant refuses repeated requests to leave council premises.

Wherever possible, we seek to apply restrictions in a way which allows a complaint to progress to completion through our complaints process. We will try to maintain at least one form of contact. In extreme situations, we will tell the complainant in writing that their name is on a 'no personal contact' list contained in the council's Awareness register. This means that they must restrict contact with our office to either written/taped communication or through a third party advocate or representative.

A persistent complainant is likely to start by being unhappy with the level of service delivery and persist in demanding unreasonable levels of service from the provider department. If this is the problem then it is for the department to decide whether or not the service received has been reasonable. In deciding whether or not they have provided adequate service consideration will be given as to whether it complies with the law, relevant guidelines or service standards agreed by the Council.

If the provider department consider that further investigation is unjustified the complainant will be advised that we will not necessarily respond to further service requests. If a complainant persists with requests for service, application of one or more of the above restrictions will be considered.

Deciding to Restrict Complainant Contact

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

Decisions about applying this policy will only be taken after careful consideration of the situation by an assistant director or designated manager. He/she will consider whether:

- the complainant is raising legitimate concerns:
- the complaint is or has been investigated properly
- any decision reached was the right one
- communications with the complainant been adequate
- the complainant is now providing any significant new information that might affect our view of the complaint.
- Any circumstances that relate to the complainant's mental health, age, gender, sexual orientation, belief or disability have been considered

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 our employees do not suffer any disadvantage and the resources of the council are used as effectively as possible.

When a line manager, head of service or assistant director feels that it is appropriate to include a complainant on the awareness register, they need to complete the form and pass it to the Feedback

manager for corporate complaints or the complaints manager for Childrens Services as a final check on proportionality before entry on the register.

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. Generally decisions about the relevance of keeping the persistent complainants name on the register will be reviewed at least annually as part of the evaluation and review process for the effectiveness of the policy unless the assistant director has stipulated a shorter period in their referral.

Appealing a Decision to Restrict Contact

A complainant can appeal a decision to restrict contact. The appeal will be considered by an assistant director or designated senior manager who was not 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.

Recording and Reviewing a Decision to Restrict Contact

We will record all contacts with persistent complainants. Where it is decided to restrict contact, an entry noting this will be made in the relevant file and on appropriate computer records. A decision to restrict contact may be reconsidered if the complainant demonstrates a more acceptable approach. We will review the status of all complainants with restricted contact arrangements on a regular basis.

We will keep a register of those subject to this policy.

When a decision has been taken not to carry on responding to correspondence, any further letters, faxes or e-mails from the complainant will be read to pick up any significant new information.

When persistent complainants make new complaints about new issues these will be treated on their merits and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

This policy links to the Council's Health and Safety Policy with special reference to the violence and Threatening behaviour at Work policy as it aims to alleviate the risks to employees caused by dealing with persistent complainants.

Policy Availability and Review

Copies of this policy are available on request and free of charge from council offices. Copies in other languages and formats are also available upon request.

This policy will be reviewed on a regular basis (six monthly) to make sure that its aims are being achieved by a consultation team made up of employees and trades union representatives. You can make comments to customer.feedback@torbay.gov.uk if you would like to contribute to the review and evaluation process for the effectiveness of the policy.

First review – May 2007

Annual review – November 2007

- refusal to specify the grounds of a complaint, despite offers of assistance with this from employees
- refusal to co-operate with the complaints investigation process
- refusal to accept that issues are not within the remit of a complaints procedure despite evidence having been provided about the procedure's scope
- attempting to use the complaints procedure to pursue a personal vendetta against an employee or team
- insistence on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice
- making what appear to be groundless complaints about the employees dealing with the complaints and seeking to have them replaced with someone more senior or with a person the complainant names
- making unnecessarily excessive demands on the time and resources of employees whilst a complaint is being looked into
- refusal to accept information provided, for no apparent good reason
- changing the basis of the complaint as the investigation process goes on and/or denying statements he/she made at an earlier stage
- making statements the complainant knows are not true or persuading others to do so
- supplying manufactured 'evidence' or other information the complainant knows is incorrect
- raising at a late stage in the process, significant new information which was in the complainant's possession when he or she first submitted a complaint
- introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered
- lodging numbers of complaints in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure
- pressing for further investigation of matters that have already been addressed
- demanding outcomes which the complaint procedure cannot in itself provide (eg the overturning of court decisions, dismissal or criminal prosecution of staff, or actions which would be illegal or infringe the rights of others, contravening other legal appeal rights outside the scope of the corporate complaints scheme)
- electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved
- pursuing a complaint or complaints with the Council 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
- using obscene, racist, homophobic, sexist, ageist, gender related, religion or belief based offensive or threatening language or behaviour in any method of contact with the council
- seeking to coerce or intimidate staff, or abusing or distressing them by the language and tone of voice or behaviour including body language in telephone conversations or personal contact
- threatening or aggressive or abusive behaviour in direct personal contacts with staff
- threatening, abusive or violent behaviour or actions directed at other people involved in the events which gave rise to the complaint
- 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
- using valid new complaints to resurrect issues which were included in previous complaints
- persistence in sending letters, emails or faxes which demand responses, or making telephone calls or seeking interviews with staff, long after the council has closed the investigation into a complaint and all rights of review and appeal have been exhausted