



Office of the
**Police & Crime
Commissioner**
West Yorkshire

PUTTING THINGS RIGHT

**‘UNREASONABLY PERSISTENT
COMPLAINANTS’**

AND

**‘UNREASONABLE COMPLAINANT
BEHAVIOUR’ POLICY**

1.0 Introduction

- 1.1 We know that people have very different needs and circumstances. In serving over 2.2 million people we have to ensure we are fair and that we balance competing needs of those and to make sure that our resources are used proportionally and appropriately. A very small number of people can take up a hugely disproportionate amount of time and resources. We want to make sure we are aware of all legitimate complaints and that we have the right information to do something about them promptly, effectively and efficiently.
- 1.2 We will always aim to work to put things right for those people who make a genuine complaint to us. We will agree with the complainant at the beginning what we can do for each type of complaint we receive.
- 1.3 Dealing with most complainants is usually straightforward. In a minority of cases, however, some people choose to pursue their complaints in ways that can impede the progress of investigation of their complaint, or can otherwise cause significant resource implications for the Office of the Police and Commissioner (OPCC).
- 1.4 We have drawn on the document produced by The Commission for Local Administration England which provides guidance for the Local Government Ombudsman¹.

2.0 Aim of this Policy

- 2.1 To deal fairly, transparently and properly with *unreasonably persistent complainants* and *unreasonable complainant behaviour* while making sure that all relevant complaints are investigated and resolved without other service users being unfairly or unreasonably disadvantaged.
- 2.2 It will also help officers supporting the Commissioner to understand what is expected of them, what options for action are available, and who can authorise these actions.

3.0 Human Rights

- 3.1 In applying this policy we will try to make sure that our actions are in accordance with the Human Rights Act 1998 and the Convention Rights within it.

4.0 Definition

- 4.1 Unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contact hinder consideration of their own, or other people's complaints.

¹ <http://www.lgo.org.uk/guidance.htm> replace with <http://www.lgo.org.uk/>

- 4.2 It should be noted that a complainant can be persistent on an entirely reasonable basis. Sometimes persistence is not only justified but necessary.
- 4.3 *Unreasonable* and *unreasonably persistent* complainants however are unacceptable. Complainants may have justifiable cause for complaint but may be pursuing them in inappropriate ways, or they may be simply intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. The contact with the OPCC might be placing very heavy demands on staff time, or the individual may be very emotionally charged creating a distressing situation for all those involved.
- 4.4 Sometimes the situation can escalate and the behaviour of complainants moves from being unreasonable and unreasonably persistent to behaviour which is wholly unacceptable, for example, abusive, offensive or threatening conduct towards staff. Such conduct will not be tolerated.
- 4.5 For the purposes of this policy, we regard an unreasonable and unreasonably persistent complainant as a member of the public who complains about issues that he or she considers to be within the remit of the Police and Crime Commissioner, but whose behaviour is characterised by:
- (a) actions that are obsessive, persistent, harassing, prolific, repetitious and/or otherwise unreasonable
 - (b) an insistence on pursuing unjustifiable complaints and/or unrealistic outcomes beyond reason and/or
 - (c) an insistence on pursuing justifiable complaints in an unreasonable manner or being uncooperative with those trying to resolve them.

5.0 Actions and behaviours of unreasonable and unreasonably persistent complainants

- 5.1 Some actions and behaviours of unreasonable and unreasonably persistent complainants are provided below. This is not an exhaustive list but provides some examples that have frequently come to the attention of the Local Government Ombudsman.
- Refusing to specify the grounds of a complaint, despite offers of assistance.
 - Refusing to cooperate with the complaints process while still wishing their complaint to be resolved.
 - Adopting false identities or forging documents.
 - Refusing to accept that issues are not within the remit of a complaints policy despite having been provided with information about the policy's scope.

- Insisting on the complaint being dealt with in ways which are incompatible with the complaints policy.
- Making what appear to be groundless complaints about the staff dealing with the complaint(s), and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements made at an earlier stage.
- 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 full answered.
- Making inflammatory statements and unsubstantiated allegations.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a ‘scattergun’ approach: pursuing a complaint or complaints with the Police and Crime Commissioner and their office and, at the same time with others such as with a Member of Parliament/a councillor/IOPC/ Ombudsman/ an authority’s monitoring officers/internal audit.
- Making unreasonably excessive demands on the time and resources of staff while a complaint is being looked into, for example by excessive telephoning or sending emails to numerous people, writing lengthy complex letters every few days and demanding immediate responses.
- Submitting repeat complaints, after proper processes have 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 unacceptable behaviour towards the Commissioner and his officers, for example:
 - swearing, threatening and abusive words or behaviour
 - racial, religious or sexual abuse
 - making personal comments about the individual
 - shouting or intimidating the person
 - making threats against staff or others.

6.0 Considerations before taking action under this policy

- 6.1 The decision to treat someone as an unreasonable or unreasonably persistent complainant is an important one and could have significant consequences for the individual.

- 6.2 Different considerations will apply depending on whether the investigation of the complaint is ongoing or whether it has been concluded. To some extent the latter is easier to deal with. Where a legitimate complaint is ongoing there needs to be some continuing contact with the complainant.
- 6.3 Before deciding whether the policy should be applied we will satisfy ourselves that:
- the complaint is legitimate and is being or has been investigated properly
 - any decision reached is an appropriate one
 - communications with the complainant have been adequate and appropriate
 - the complainant is not providing any significant new complaint. New evidence provided in relation to finalised cases will be considered if it is presented within three months of the finalisation of the case. Information provided after this will be read and placed on file but no other action taken.
- 6.4 We will also satisfy ourselves that any decision made regarding issues raised not within the remit of our complaints policy was correct and for those complainants who refuse to accept our decision we will proceed to operate this policy.
- 6.5 Before we apply any restrictions the complainant will ordinarily be given a warning that if his/her actions continue a decision may be made to treat him/her as an unreasonable or unreasonably persistent complainant, and explain why.

7.0 Operating this policy

- 7.1 Where we form the view that we are dealing with an unreasonable or unreasonably persistent complainant, the case will be referred to the Commissioner's Management Team² to consider whether this policy should be applied.
- 7.2 The complainant should also be provided with a copy of this policy.
- 7.3 Staff members have the right to terminate telephone calls where they consider that the caller is being aggressive, abusive or offensive, after telling the caller that their behaviour is unacceptable and/or is placing unreasonable demands on the OPCC. In this event a note will be made of the action taken.
- 7.4 Staff members who directly experience aggressive, offensive, abusive or unreasonable behaviour from an individual have the right to deal immediately

² The Chief Executive/Solicitor, Chief Finance Officer/Deputy Chief Executive must be in attendance along with the Deputy Monitoring Officer.

with this behaviour either by removing themselves from the situation or asking the individual to leave the premises.

7.5 Options for action

7.6 There are different options for action which Management Team can apply to ensure that each case will have a proportionate and appropriate response to address the particular issues that the complainant brings. The options for management of the complainant include:

- Placing time limits on telephone conversations and personal contact.
- Restricting the manner and form of communications with the complainant.
- Restricting the number of telephone calls that will be taken from the complainant.
- Limiting the complainant to one appropriate method of contact (telephone, letter or email) and/or requiring the complainant to communicate only with one named member of staff.
- Requiring any personal contact to take place in the presence of a witness.
- Refusing to register, process or discuss further complaints about the same matter.

7.5 If Management Team makes the decision to apply this policy the complainant will be told:

- when the decision was taken
- what it means for his or her contact with the office
- when the decision will be reviewed / how long the restriction(s) will last.

7.6 Where we decide on the relevant conditions that we will apply to a complainant we will inform them of those conditions and their effect. We will advise the complainant that future correspondence on the matter will be read and placed on file but will not necessarily be acknowledged. A designated officer will be identified and they will read future correspondence from the complainant.

7.7 Records of all contact with unreasonable and unreasonably persistent complainants should include when a decision is taken or requested or an exception to the policy has been applied. Further letters and correspondence from the complainant should be checked to pick up any significant new information.

- 7.8 The OPCC reserves the right to pass any unreasonable complaints to our legal representatives which may result in legal action.
- 7.9 Where material, comments or actions are grossly offensive or threatening and may be construed as an offence under the Public Order Act 1986, the Protection from Harassment Act 1997 or the Malicious Communications Act 1988, the OPCC may involve the police or institute proceedings.

8.0 Reviewing the restrictions

- 8.1 Twelve months from the start of the restrictions a check will be made to see whether the restrictions are still appropriate.
- 8.2 If the restrictions are no longer required they will be lifted subject to agreement by the individual that their unreasonable behaviour will cease. Immediate consideration will be given to re-introducing them if the complainant's behaviour which led to the original decision starts again.
- 8.3 Appeals against application of this policy may be made by writing to the Chair of the Independent Audit and Ethics Committee at the following address:

Office of the Police and Crime Commissioner
Ploughland House
62 George Street
Wakefield
WF1 1DL

Appeals will only be considered if they are submitted in writing and appeal rights are limited to one occasion.

9. Data Protection

- 9.1 The OPCC will retain records of the contact made by individuals in order to deal with their complaint and to review the application of this policy. These will be retained for seven years after the complaint has been finalised before being destroyed or deleted.

Author: T Holder
Date of issue: 04.02.13
Date of review: 08.01.18