

Burnley Council Vexatious Complaints Policy

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1. Introduction

- 1.1 Dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the Council. This can happen either while their complaint is being investigated, or once the Council has finished dealing with the complaint.
- 1.2 The Council is committed to dealing with all complaints equitably, comprehensively, and in a timely manner.
- 1.3 The Council does not expect staff* to tolerate unacceptable behaviour by complainants or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening and may include:
 - Using abusive, threatening or obscene language in any communications with the Council.
 - Having unnecessary and inappropriate multiple contact with the Council.
- 1.5 The Council will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy.
- 1.6 Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, shall not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.

* The term 'staff' means employees of Burnley Council, its elected members, service users, partner organisations, volunteers or contractors for the purposes of this policy.

2. Aim of this Policy

- 2.1 The aim of this policy is to contribute to the Council's overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.
- 2.2 It sets out how the Council will decide which complainants will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. Nothing in this policy will override a complainant's right to seek their own legal advice on the options available to them.

3. Definitions

- 3.1 The Council has adopted the Local Government Ombudsman's (LGO) definition of "unreasonable complainant behaviour" and "unreasonable persistent complaints."
- 3.2 The Council defines unreasonably persistent and unreasonable behaviour complainants as those complainants who, because of the frequency or nature of their contacts with the Council, hinder its consideration of their or other people's complaints.
- 3.3 Examples of unreasonable and unreasonably persistent complaints include:
 - Persisting in pursuing a complaint where the Council's complaints procedure has been fully and properly implemented and exhausted, including the Local Government Ombudsman.
 - Making excessive demands on staff time whilst a complaint is being investigated.

- Complaining repeatedly about the same issue, despite previous investigations concluding that the complaint is groundless.
- Refusing to specify the grounds of a complaint despite offers of assistance.
- Refusing to co-operate with the complaint investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of an appropriate complaint procedure despite having been provided with information about the procedure's scope.
- Making what appear to be groundless complaints about the staff dealing with the complaint, 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 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 fully answered.
- Electronically recording meetings or conversations without the prior knowledge and consent of the other persons involved.
- Adopting a scattergun approach: pursuing a complaint with the Council and at the same time, with a member of parliament, a councillor, the standards board, local police, solicitors or the ombudsman.
- Making unnecessarily excessive demands, which are unreasonable and unsustainable on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous Council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submitting repeat complaints after complaints processes have been completed essentially about the same issues, with additions or variations which the complainant insists make these new complaints which should be put through the full complaints procedure.
- Refusing to accept the decision of the Council, repeatedly arguing the point and complaining about the decision.
- Combinations of some or all of these.

4. Considerations prior to taking action under this policy

4.1 Before deciding whether the policy should be applied the Council should be satisfied that:

- The complaint is being or has been properly investigated;
- Any decision reached on it is the right one;
- Communications with the complainant have been adequate;
- The complainant is not providing any significant new information that might affect the authority's view on the complaint; and

- Any circumstances that relate to the complainant's mental health, age, gender, sexual orientation, religious belief, language or disability have been considered.
- 4.2 If the Council is satisfied on these points it will consider whether further action is necessary prior to taking the decision to designate the complainant as unreasonable or unreasonably persistent. Examples might be:
- If no meeting has taken place between the complainant and an officer /officers, and provided the authority knows nothing about the complainant which would make this inadvisable, consider offering the complainant a meeting with an officer of appropriate seniority. Sometimes meetings can dispel misunderstandings and move matters towards a resolution. The Council does not, however, guarantee a meeting and will offer one dependent on the particular circumstances of the case.
 - If more than one service is being contacted by an unreasonably persistent complainant, consider:
 - a) setting up a strategy meeting to agree a cross-service approach; and/or
 - b) designating a key officer to co-ordinate the authority's response(s).
 - If the complainant has special needs, arrange for an independent advocate to assist.
- 4.3 It is vital that all attempts are made to maintain effective communication and relationships with complainants. Before applying the policy the Council should be satisfied that the complaint is/has been addressed and the complaints procedure fairly applied and the complainant must be notified by phone, in writing or e mail of the concerns and include a warning of potential action the Council may take (with reference to this policy) if the problems persist.
- 4.4 The options available prior to taking action under this policy will depend on the status of the complaint and the circumstances of the individual case. The designation of a complainant as unreasonable or vexatious should be a last resort and all other options should be explored to manage the issues and ensure the complaint is addressed.
- 4.5 Ultimately the decision on whether the complainant is unreasonable or vexatious can be taken by either the Chief Executive or the Chief Operating Officer.

5. Options for action

- 5.1 There are likely to be very few complainants whose behaviour would fall within the scope of this policy. How the Council manages these complainants will depend upon their nature and extent. If their persistence adversely affects the Council's ability to carry out its functions and provide a service to others, it may need to manage their unacceptable behaviour by restricting their contact with staff.
- 5.2 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(s) 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).

- Limiting the complainant to one medium of contact (telephone, letter, email etc) and/or requiring the complainant to communicate only with one named officer.
- Requiring any personal contacts to take place in the presence of a witness.
- Refusing to register and process further complaints about the same matter.
- Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or e mails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged.

5.3 In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual against those of other complainants and the need for the Council to provide its services.

5.4 Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases the Council may not give the complainant prior warning of that action.

6. Operating the policy

6.1 If a decision is taken to apply the policy, the appropriate manager will write to inform the complainant:

- Why the restriction or sanction has been imposed
- What it means for his/her contacts with the authority
- How long any restrictions or sanctions will remain in place. Enclose a copy of the policy with the letter.

6.2 A register of those subject to this policy will be maintained by the Corporate Policy Officer. The officers listed at paragraph 4.5, that have the authorisation to apply, shall inform the Corporate Policy Officer when a decision has been made to designate a complainant as unreasonable and or persistent.

6.3 All officers and Members who have experienced unreasonable complainant behaviour in respect of a specific complainant shall be informed of the decision to impose contact restrictions.

6.4 The register will include details of the decision, the restrictions and the time limits if appropriate.

7. Records

7.1 Adequate records will be kept of all contacts with unreasonably persistent complainants and complainants behaving unreasonably. The information will be treated as confidential and only shared with those who may be affected by the decision.

Key information recorded includes:

- When a decision is taken to apply (or not to apply) the policy following a request to do so by a member of staff or to make an exception to the policy once it has been applied.

- When a decision is taken not to put a further complaint from such a complainant through the complaints procedure; or
- When a decision is taken not to respond to further correspondence, make sure any further letters, faxes or e mails from the complainant are checked to pick up any significant new information.

8. Review of decisions taken under this policy

- 8.1 All cases will be reviewed 6 months after a decision to restrict or terminate contact has been made to ensure that action taken remains appropriate and proportionate. The review will include the examination of any breaches or attempted breaches of the sanctions imposed any communications with the Council and any instances of inappropriate behaviour towards Officers or Members. If a complainant to whom the Council has decided to apply the policy has no contact with the authority within the above period, the position should be reviewed and a decision taken on whether any restrictions placed on the complainants contacts should be cancelled.
- 8.2 The complainant will be notified of the outcome of the review.

9. Future complaints by the same complainant

- 9.1 When unreasonable and unreasonably persistent complainants make complaints about new issues these should 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.

10. Referral to the Local Government Ombudsman

- 10.1 In some cases, relations between the Council and the complainant can break down and there is little prospect of achieving a satisfactory outcome. In such circumstances there is often little point in working through all stages of the complaints procedure and where this occurs the Ombudsman may be prepared to consider complaints before complaints procedures have been exhausted.
- 10.2 Decisions to refer such cases to the Ombudsman should be confirmed in writing by the Head of Policy and Engagement.
- 10.3 A complainant who has been designated an unreasonably persistent complainant may make a complaint to the Ombudsman about the way in which he/she has been treated.