

PLEASE NOTE VENUE

PERFORMANCE PORTFOLIO DECISION SCHEDULE



Friday 25th January 2008

at 3.00 pm

**in the Blue Room, Avondale Centre,
Dyke House, Hartlepool
(Raby Road entrance)**

Councillor Hargreaves, Cabinet Member responsible for Performance will consider the following items.

1. **KEY DECISIONS**
No items
2. **OTHER ITEMS REQUIRING DECISION**
 - 2.1 Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour Policy – *Assistant Chief Executive*
3. **ITEMS FOR INFORMATION**
No items
4. **REPORTS FROM OVERVIEW OF SCRUTINY FORUMS**
No items

PERFORMANCE PORTFOLIO

Report to Portfolio Holder

25th January 2008



Report of: Assistant Chief Executive

Subject: **UNREASONABLY PERSISTENT COMPLAINANTS &
UNREASONABLE COMPLAINANT BEHAVIOUR POLICY**

SUMMARY

1. PURPOSE OF REPORT

To report to the Portfolio Holder on a proposed addition to the Corporate Complaints procedure.

2. SUMMARY OF CONTENTS

The report discusses a proposal to add a policy on unreasonable complainants and unreasonable complainant behaviour to the Corporate Complaints procedure.

3. RELEVANCE TO PORTFOLIO MEMBER

The Portfolio Member has responsibility for performance management issues.

4. TYPE OF DECISION

Non-key

5. DECISION MAKING ROUTE

Portfolio Holder meeting on 25th January 2008

6. DECISION(S) REQUIRED

That the Portfolio Holder approves the draft policy for inclusion in the Corporate Complaints Procedure.

Report of: Assistant Chief Executive

Subject: **UNREASONABLY PERSISTENT COMPLAINANTS &
UNREASONABLE COMPLAINANT BEHAVIOUR POLICY**

1. PURPOSE OF REPORT

- 1.1 To seek the Portfolio Holder's approval for the inclusion of a policy on unreasonable complainants and unreasonable complainant behaviour to the Corporate Complaints procedure.

2. BACKGROUND

- 2.1 Generally, 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 authority. The Local Government Ombudsman has recommended that all authorities should have, as part of their complaints procedure, a policy and procedure for dealing with unreasonably persistent complainants and unreasonable complainant behaviour.

3. DRAFT POLICY

- 3.1 The attached draft policy (See Appendix 1) has been drawn up in consultation with the Corporate Complaints Officer Group and the Chief Solicitor. It also uses the guidance provided by the Local Government Ombudsman's office on good practice in dealing with these complainants.
- 3.2 The policy has been formulated to deal with the very small number of complainants whose frequency of contact with the authority; irresolvable and persistent nature of their complaints; or unacceptable behaviour makes it necessary for special measures to be taken.
- 3.3 Before implementing any of the provisions in the policy, officers must consider whether the Council's procedures have been followed correctly, whether full and reasonable responses have already been given and whether the complainant is now inappropriately persistent or behaving unreasonably. It is hoped that this is a policy which will not need to be used very often.
- 3.4 If complainants continue to behave unreasonably or to be unreasonably persistent, it may be decided to restrict the complainant's contact with the Council, e.g. restricting all contact to letters only, specifying that contact should be with a single named member of staff, requiring personal contact to take place in the presence of a witness, etc.

- 3.5 Any decisions to restrict contact will be made by the appropriate departmental director in consultation with the Chief Solicitor and Corporate Complaints Officer. In the case of dispute about the classification of a complainant as unreasonably persistent or as behaving unreasonably, the matter will be referred to the Performance Portfolio Holder for a final decision. The Performance Portfolio Holder will be informed of any decisions to restrict contact. All such decisions will be reviewed at least once every 12 months.

4. RECOMMENDATIONS

That the Portfolio Holder approves the draft policy for inclusion in the Corporate Complaints Procedure.

5. BACKGROUND PAPERS

- Hartlepool Borough Council Corporate Complaints Procedure 2006.
- Guidance Note on “unreasonably persistent” complainants and “unreasonable complainant behaviour”, Local Government Ombudsman, Commission for Local Administration in England, 2007

6. CONTACT OFFICER

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HARTLEPOOL BOROUGH COUNCIL COMPLAINTS PROCEDURE (draft)

UNREASONABLY PERSISTENT COMPLAINANTS & UNREASONABLE COMPLAINANT BEHAVIOUR POLICY

1. Introduction

- 1.1 In general, dealing with a complaint is a straightforward process, but in a minority of cases people pursue their complaints in a way that can impede the investigation of their complaint or can have significant resource implications for the authority. This policy has been formulated to deal with the very small number of complainants whose frequency of contact with the authority, insoluble and persistent complaints, or unacceptable behaviour makes it necessary for special measures to be taken.
- 1.2 Before implementing any of the provisions in this policy, officers must consider whether the Council's procedures have been followed correctly, whether full and reasonable responses have already been given and whether the complainant is now inappropriately persistent or behaving unreasonably.

2. Unreasonably persistent complainants and/or unreasonable complainant behaviour

- 2.1 The following list, whilst not exhaustive, outlines some of the actions and behaviours of unreasonable and unreasonably persistent complainants.
- Having insufficient or no grounds for their complaint and making the complaint only to annoy or inconvenience the Council;
 - Refusing to specify the complaint, despite offers of assistance with this from the Council's staff;
 - Refusing to co-operate with the complaints investigation process whilst still wishing their complaint to be resolved;
 - Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope;
 - Insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or good practice (e.g. insisting that there is no written record made of the complaint);
 - Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them dismissed or 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 fully answered;

- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved;
- Making unnecessarily excessive demands 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/variations which the complainant insists make these “new” complaints which should be put through the complaints procedure.
- Adopting a “scattergun” approach - pursuing a complaint or complaints with different parts of the authority at the same time and/or with a Member of Parliament/a councillor/the authority’s independent auditor/the Standards Board/local police/a solicitor/the Ombudsman;
- Refusing to accept a complaints decision – repeatedly arguing the point and complaining about the decision.
- Behaving in an abusive, offensive or threatening manner towards Council employees or their families (See para 2.2);
- Combinations of some or all of these

2.2 Abusive, offensive or threatening conduct may need to be dealt with through the Employee Protection Register Policy and Procedures. The authority has a duty to provide a safe working environment and system of work for its employees. This policy puts into place a register of people and addresses which constitute a potential threat to the safety of staff when they come into direct face to face contact.

3. Being reasonable

- 3.1 It is reasonable for complainants to raise legitimate queries or criticisms of a complaints procedure as it progresses. For example, if agreed timescales are not met and a complainant expresses dissatisfaction, this should not, in itself, lead to someone being regarded as unreasonable or unreasonably persistent.
- 3.2 Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it, e.g. by requesting a member review and/or taking it to the Ombudsman, should not necessarily cause the complainant to be labelled as unreasonable or unreasonably persistent.
- 3.3 The Council should offer appropriate support to all complainants and be aware of and sensitive to any special needs of the complainant. Consideration should be given to putting people in touch with a suitable agency (e.g. CAB or an advocacy service) which can help them during the complaints process.. There may also be a need for support through the translation of documents into appropriate languages or formats and interpretation services for meetings etc. (See the Corporate Complaints Procedure, para 3.3)

4. Deciding to take action

- 4.1 The decision to classify a complainant as unreasonably persistent or as behaving unreasonably should be made by the director of the service concerned, in consultation with the Corporate Complaints Officer and the Chief Solicitor. In the case of dispute about the classification of a complainant, the matter will be referred to the Performance Portfolio Holder for a final decision.
- 4.2 A written record should be kept of why the complainant is believed to be unreasonable; what information has been considered; and how decisions have been made. The Council must be able to demonstrate that it has acted in a fair and objective way.
- 4.3 If more than one department is being contacted by the complainant, perhaps with different complaints, the Council must consider setting up a joint meeting to agree a cross-departmental approach and nominating a key officer to co-ordinate the Council's response.

Initial notification

- 4.4 When unreasonably persistent or unreasonable behaviour has been identified, the unacceptable behaviour should be explained to the complainant, usually by letter, and the complainant will be asked to modify their behaviour. An explanation of the action the Council is likely to take if the behaviour is not modified should also be given.

5. Options for restricting a complainant's contact with the Council.

- 5.1 If the complainant does not modify their behaviour, the options which the Council may consider are:
- a. Refusing to accept a complaint or to amend the terms of a complaint;
 - b. Requesting contact to be in a particular format (e.g. letters only);
 - c. Requiring contact to take place with one named member of staff only;
 - d. Restricting telephone calls to specified/times/days/duration;
 - e. Requiring any personal contact to take place in the presence of an appropriate witness;
 - f. Letting the complainant know that the Council will not reply or acknowledge any further contact from him or her on the specific topic of that complaint;
 - g. Restricting access to one or more Council premises. (N.B. Care must be taken not to interfere with a complainant's statutory rights, e.g. to attend Council meetings or view papers, when making such a restriction.)
- 5.2 These options are not exhaustive and other factors individual to the case or service may be relevant in deciding on an appropriate course of action. For example, any arrangements for restricting a complainant's contacts must take into account the complainant's circumstances such as age, disability, literacy level, race etc.

- 5.3 If none of the options listed at 5.1 offer the protection that staff are entitled to, other options may be available, such as issuing an injunction against a complainant or involving the police. These will be considered on a case by case basis, in consultation with the Chief Solicitor.

6. After a decision to restrict contact has been made

- 6.1 When a decision has been made as to the appropriate restrictions to be used, the departmental director, in consultation with the Chief Solicitor and Corporate Complaints Officer, will write to the complainant explaining the Council's decision and what restrictions are being made and, if appropriate, for how long. A client's special needs, e.g. literacy problems or language difficulties, may make a face to face meeting appropriate to give this information to the complainant.
- 6.2 If the complainant feels that the authority is acting improperly or unfairly in making the restrictions, they have the option of complaining to the Local Government Ombudsman. They should be informed of this option in the letter laying out the restrictions.
- 6.3 A copy of the decision letter and a note on the decision should be sent to the Corporate Complaints Officer, all departmental complaints co-ordinators and departmental directors.
- 6.4 The Performance Portfolio Holder will be informed of any decisions to restrict contact.
- 6.5 Appropriate managers and staff, e.g. those likely to be involved in implementing the restrictions should be notified of the decision.

7. Reviewing decisions

- 7.1 All restrictions will be subject to review, at least once every 12 months. Departments may wish to review within a shorter time period, to take account changes in circumstances and/or behaviour.
- 7.2 Reviews will be undertaken by the department concerned, in consultation with the Corporate Complaints Officer and the Chief Solicitor. Complainants should be notified that a review has taken place and of its outcome.
- 7.3 The outcomes of all reviews should be sent to the Corporate Complaints Officer, all departmental complaints co-ordinators and departmental directors.