



THE ROYAL BOROUGH OF
KENSINGTON
AND CHELSEA

**Royal Borough of Kensington and Chelsea (RBKC)
Housing Management**

**POLICY ON THE MANAGEMENT OF
UNREASONABLE COMPLAINANTS**

March 2021 - February 2024

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2 Introduction

- 2.1 The Council is committed to dealing with all complaints fairly and impartially in accordance with its Complaints Procedure. However, there are a small number of complainants who make unreasonably persistent complaints or conduct themselves in an unacceptable manner and the Council has, therefore, developed a policy in respect of this type of behaviour.
- 2.2 Only in a minority of cases do people pursue their complaints in a way which is unreasonable. They may behave unacceptably or be unreasonably persistent in their contacts and submission of information. This can impede the investigation of their complaint (or the complaints of others) and can have significant resource issues for the Council and, in some cases, its partners. These actions can occur either while their complaint is being investigated, or once the Council has concluded the complaint investigation.
- 2.3 This policy covers “unreasonable complainant behaviour” which may include one or more isolated incidents as well as “unreasonably persistent behaviour” which is usually an accumulation of incidents or behaviour over a longer period.
- 2.4 The policy has had regard to ‘Guidance note on management of unreasonable complainant behaviour’ published by the Local Government Ombudsman.
- 2.5 It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are unreasonably persistent in making their complaints.
- 2.6 If the complainant is persisting because their complaints have not been considered in full then the Council must address this. However, if the Council has already done so and has demonstrated this to the complainant, the Complaints Manager should consider whether the behaviour of the complainant is now inappropriately persistent. This process should only be used as a last resort and after all reasonable measures have been taken to resolve complaints in accordance with the Council’s Complaints Procedure.
- 2.7 The term Customer Experience Team Leader is used throughout this document and refers, to the designated officer managing the complaint within the service area. Where there is no designated officer within a service area the reference to Customer Experience Team Leader should be to the relevant Head of Service or someone authorised by him or her in writing to take decisions in accordance with this policy.

3 Policy Aims

- 3.1 The aim of this policy is to contribute to the Council's overall aim of dealing with all complaints in ways which are demonstrably consistent, fair and reasonable.
- 3.2 It sets out how we will decide which actions or behaviours will be treated as unreasonable or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff as well as service users and other complainants.

4 Related Documents

- 4.1 Complaints Policy (RBKC)
- 4.2 Guidance on Managing Unreasonable Complainant Behaviour (LGSC Ombudsman)
- 4.3 Equality and Cohesion Policy Statement (RBKC)

5 Equalities Statement

The Council is committed to promoting fair and equal access to services and equal opportunities in employment, the procurement of goods and as a community leader. The Council's policies, procedures and day to day practices have been established to promote an environment which is free from unlawful and unfair discrimination, while valuing the diversity of all people.

Discrimination on the grounds of race, nationality, ethnic origin, religion or belief, gender, marital status, sexuality, disability and age is not acceptable: the Council will take action to ensure no person using the council's premises or services receives less favourable treatment or is disadvantaged by requirements or conditions that cannot be justified. The Council will tackle inequality, treat all people with dignity and respect and continue to work to improve services for all service users.

The legal framework for the Council's approach is provided by the Equality Act 2010 and specifically by the Public Sector Equality Duty, under which a public authority must work consciously to eliminate discrimination, harassment, victimisation and to advance equality of opportunity and foster good relations between people with differing characteristics.

Further detail on the Duty, and the Council's approach to fulfilling its requirements, can be found at www.rbkc.gov.uk.

6 Legal Context

- 6.1 The Local Government Act 1974
- 6.2 The Regulatory Reform Order 2007

7 Policy Statement

- 7.1 It is important to distinguish between people who make a number of complaints or who persist with complaints because they genuinely think things have gone wrong and those people who are unreasonably persistent and who because of the nature or the frequency of their contact with the Council hinder the consideration of their, or other people's, complaints.
- 7.2 In most instances when we consider someone's behaviour is unreasonable, we will explain why and ask them to change it. We will also warn them that, if the behaviour continues, we may take action to restrict their contact with our offices. Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Housing Ombudsman we may report the matter to the police or consider taking legal action. In such cases, we may not give the complainant warning.
- 7.3 We will not tolerate deceitful, abusive, offensive, threatening, discriminatory or other forms of unacceptable behaviour from complainants. When it occurs, we will take proportionate action to protect the wellbeing of our staff and the integrity of our processes.
- 7.4 Our Customer Experience Team manage a number of cases at any one time, using their time and resources to best effect. They cannot do so if someone tries to dominate our attention with frequent, lengthy contacts and repetitive information. This hinders the consideration of their, or other people's, complaints. When necessary, we will take action to restrict access to our service when unreasonable behaviour of this nature persists.
- 7.5 The following are some of the actions and behaviours which the Council would consider to be unreasonably persistent behaviour. Single incidents may be unacceptable but unreasonably persistent behaviour will usually be found when the complainant demonstrates the following behaviour over time:
 - i. refusing to specify the grounds of a complaint despite offers of assistance
 - ii. refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved
 - iii. refusing to accept that issues are not within the power of the Council to investigate, change or influence

- iv. insisting on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint(s))
- v. making what appears to be an unjustified complaint about the staff dealing with the complaints, and seek to have them replaced
- vi. making excessive demand on the time and resources of staff dealing with the complaint by, for example, lengthy phone calls or emails to numerous Council staff and expecting immediate responses raising subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- vii. introducing trivial or irrelevant new information whilst the complaint is being investigated and expecting this to be taken into account and commented on
- viii. changing the substance or basis of the complaint without reasonable justification whilst the complaint is being considered
- ix. denying statements they made at an earlier stage in the complaint process
- x. electronically recording meetings and conversations without the prior knowledge of the other person involved
- xi. refusing to accept the outcome of the complaint process after its conclusion or repeatedly arguing the point with no new evidence
- xii. making the same complaint repeatedly, perhaps with minor differences, after the complaints' procedure has been concluded, and insist that the minor differences constitute 'new' complaints which should be put through the full complaints' procedure
- xiii. raising numerous detailed but unimportant questions and insisting they are all answered

8 Imposing restrictions

- 8.1 The Customer Experience Team Leader will contact the complainant in writing or by email to explain why this behaviour is causing concern and ask them to change this behaviour. The Complaints Manager will explain the actions that the Council may take if the behaviour does not change.
- 8.2 If the unreasonable behaviour continues the Customer Experience Team Leader will make a decision to impose restrictions, in conjunction with the relevant Head of Service of the department.
- 8.3 Any restriction imposed should be appropriate and proportionate. In most cases restrictions will apply for between three and six months but may be extended in exceptional cases. In such cases the restrictions are to be reviewed on a quarterly basis.
- 8.4 The Customer Experience Team Leader is likely to consider the following restrictions:
 - i. Restricting contact by telephone except through a third party e.g. solicitor/Councillor/ advocate or friend acting on their behalf, with named Council officers or to specified days and times

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- ii. Restricting correspondence in connection with the complaint to letter and not email
- iii. Restricting contact only with named members of staff
- iv. Requiring any direct face to face contact to take place in the presence of an appropriate witness
- v. Refusing to register and deal with further complaints about the same matter
- vi. Advising the complainant that a designated member of staff will read all future correspondence and place it on file without acknowledgement unless it contains material new information.

8.5 Once the Customer Experience Team leader has decided to apply restrictions, they will write to the complainant explaining:

- i. why their behaviour is being treated as unacceptable
- ii. the action they are going to take
- iii. the duration of this action
- iv. the review process of the policy
- v. enclose a copy of the policy in the letter to the complainant
- vi. inform the complainant how they can seek to appeal the decision if they disagree with it and the process for doing so

8.6 Within 14 days of the date of the letter advising them of the restrictions, the complainant has the right to request in writing, that the Executive Director review the decision of the Customer Experience Team Leader. The decision of the Executive Director will be final and where relevant the complainant will be advised of their right to refer the matter to be investigated by the appropriate body, for example the Housing Ombudsman or Information Commissioner's Office.

8.7 Where the behaviour is abusive or it threatens the immediate safety and welfare of staff, the Council will consider other options, including recording the Complaint on Cautionary Contacts database, reporting the matter to the police or taking legal action to restrict access to Council services or premises. In such cases, the Council may not give the complainant prior warning of that action.

9 New complaints from complainants where restrictions have been applied under this policy

- 9.1 Any new complaints not connected to the original complaint that triggered the restrictions under this policy will be considered on their individual merits and the particular circumstances around the imposition of the restrictions. The Customer Experience Team Leader will review all new correspondence and material and decide whether investigation of the new complaint is warranted and if not, it will be placed on file with no acknowledgement.
- 9.2 If the Customer Experience Team Leader agrees to investigate the new complaint a decision will be made as to whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint.
- 9.3 This policy will not be used as a “blanket policy” to enable services to ignore genuine service requests or complaints provided it is appropriate and safe for them to be investigated.
- 9.4 Any restrictions imposed will be recorded with the appropriate service and officers within the council will be notified only on a need to know basis.

10 Review of restrictions

- 10.1 Any restrictions imposed in accordance with this policy will be reviewed by the Customer Experience Team Leader three months after their imposition and every three months thereafter – within the period during which the restriction is to apply.
- 10.2 The complainant will be informed of the result of this review if the decision is to change or extend the restriction.

11 Referring complaints to the Housing Ombudsman

- 11.1 In some exceptional cases, when relations between the Council and complainants whose behaviour is considered to be unreasonable or unreasonably persistent has caused breakdown in the communications between both parties while complaints are under investigation, the Customer Experience team may use their discretion and defer from following all the stages of the complaints procedure providing there is little prospect of achieving a satisfactory outcome.
- 11.2 In such circumstances, the Customer Experience Team Leader may approach the Housing Ombudsman to ascertain whether they will consider a complaint before the Council’s complaints procedure has been fully exhausted.

12 Record keeping

12.1 Adequate records will be retained by the appropriate Customer Experience Officer detailing the case and the actions that have been taken.

12.2 The Customer Experience Team Leader will retain a record of:

- i. The name and address of each customer who is treated as abusive, unreasonably persistent or vexatious
- ii. When the restriction(s) came into force and ends
- iii. The nature of the restriction(s)
- iv. The dates when the customer and appropriate council departments were advised.

12.3 The records should be maintained for two years from date of resolution or conclusion. If stored electronically the physical copy can be destroyed.

13 The General Data Protection Regulation (GDPR) and the UK Data Protection Act 2018

As a directorate of RBKC, Housing Management shares the commitment to ensure that all data is:

- Processed lawfully, fairly and in a transparent manner
- Collected for a specific and legitimate purpose and not used for anything other than this stated purpose, or as provided for in our privacy and fair processing notices
- Relevant and limited to whatever the requirements are for which the data is processed
- Accurate, and where necessary, kept up to date. Any identified inaccuracies will be amended or removed without undue delay
- Stored for as long as required, as specified within RBKC's Records Retention policy
- Secured with appropriate solutions, which protect the data against unauthorised or unlawful processing and accidental loss, destruction or damage.

For further information about the Council's commitment to GDPR, please see the Council's website at www.rbkc.gov.uk.

14 Monitoring and Review

This policy will be reviewed in conjunction with written procedures every three years, or when legislative or regulatory changes take place that could affect it. The next review will take place by February 2024.