



POLICY ON DEALING WITH UNACCEPTABLE ACTIONS BY COMPLAINANTS

Human Resources

February 2016

Policy on dealing with unacceptable actions by Complainants

Introduction

- 1.1 Dealing with a complaint is a straightforward process. However, 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 Comhairle. This can happen either while their complaint is being investigated, or once the Comhairle has finished dealing with the complaint.
- 1.2 The Comhairle believes that complainants have a right to be heard, understood and respected and is committed to dealing with all complaints equitably, comprehensively and in a timely manner.
- 1.3 Complainants will not normally have limits placed on the contact they have with Comhairle staff or offices.
- 1.4 The Comhairle 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 or foul language on the telephone
 - using abusive or foul language face-to-face
 - sending multiple e-mails
 - leaving multiple voice mails
- 1.5 Action will be taken to protect staff from such behaviour. If a complainant behaves in a way that is unacceptable because it involves abuse of our staff or our processes, this Policy will be followed.

Aims

- 2.1 The aim of this Policy is to contribute to the overall aim of dealing with all complainants in a manner which is consistent, fair and reasonable.

Definitions

- 3.1 This Policy does not cover the raising of legitimate queries or criticisms of a complaints procedure as it progresses nor instances where the complainant is forceful or determined. However, actions which result in unreasonable demands on staff or unreasonable behaviour towards staff are covered by this Policy.
- 3.2 Features of unacceptable behaviour from a complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category).

Aggressive or Abusive Behaviour

Complainants may be angry about the issues they have raised in their complaints. If the anger escalates into aggression towards Comhairle staff, that is considered as unacceptable. Any violence or abuse towards staff will not be tolerated.

Violence is not restricted to acts of aggression which may result in physical harm. It also includes behaviour or language (whether verbal or written) which may cause staff to feel afraid, threatened or abused, and may include threats, personal verbal abuse, derogatory remarks and rudeness.

Inflammatory statements and unsubstantiated allegations are also considered to be abusive behaviour.

Unreasonable Demands

A demand becomes unacceptable when it starts to, or when complying with the demand would, impact substantially on the work of the service.

Examples of actions grouped under this heading include:

- repeatedly demanding responses within an unreasonable timescale
- insisting on seeing or speaking to a particular member of staff when that is not possible
- repeatedly changing the substance of a complaint or raising unrelated concerns.

Unreasonable refusal to co-operate

There may be occasions when the service requires additional communication with the complainant. This can include requests to clarify the complaint, requests for further information or for assistance in accurately summarising concerns.

Sometimes, if an individual refuses to cooperate this makes it difficult to proceed with investigating the complaint. The Comhairle will always seek to assist someone if they have a specific, genuine difficulty complying with a request. However, the Comhairle considers it unreasonable to bring a complaint and then not respond to reasonable requests.

Unreasonable Levels of Contact

The volume and duration of contact made to a service by one individual causes problems. This can occur over a short period, eg a number of calls in one day or one hour. It may occur over the lifespan of a complaint when a complainant repeatedly makes long telephone calls to the service area or inundates the service with copies of information which has been sent already or that is irrelevant to the complaint.

The level of contact becomes unacceptable when the amount of time spent talking to a complainant on the telephone, or responding to, reviewing and filing e-mails or written correspondence impacts on the Comhairle's ability to deliver a service within the service area in which the complaint is being investigated.

Unreasonable Use of the Complaints Process

Individuals have a right to pursue complaints about the service delivered by the Comhairle. They also have the right to complain more than once if subsequent incidents occur.

However, this contact becomes unreasonable when the effect of the repeated complaints is to harass, or to prevent an organisation from pursuing a legitimate aim or implementing a legitimate decision. The Comhairle considers access to a complaints procedure to be important and it will only be in exceptional circumstances that it would consider such repeated use as unacceptable. However, the Comhairle reserves the right to do so in those exceptional cases.

Imposing Restrictions

- 4.1 The Comhairle will ensure that the complaint is being, or has been, investigated properly according to the Complaints Procedure.
- 4.2 However, when actions are deemed unacceptable, the following actions will be taken.

Aggressive or Abusive Behaviour

The threat or use of physical violence, verbal abuse or harassment towards Comhairle staff is likely to result in a termination of all direct contact with the complainant. Incidents may be reported to the Police. This will always be the case if physical violence is used or threatened.

The Comhairle will not accept any correspondence (letter, fax or electronic) that is abusive to staff or contains allegations which lack substantive evidence. The Comhairle will tell the complainant that it considers their language offensive, unnecessary and unhelpful and ask them to refrain from using such language. The Comhairle will state that it will not respond to their correspondence if the action or behaviour continues.

Comhairle staff will end telephone calls if they consider the caller to be aggressive, abusive or offensive. Comhairle staff have the right to make this decision, to tell the caller that their behaviour is unacceptable and end the call if the behaviour persists.

In extreme situations, the Comhairle will tell the complainant in writing that their name is on a 'no personal contact' list.

This means that the Comhairle will limit contact with them to either written communication or through a third party.

Unreasonable Behaviour

The Comhairle has to take action when unreasonable behaviour impairs the functioning of its services. The Comhairle aims to do this in a way which allows a complaint to progress through the Comhairle's process. The Comhairle will try to ensure that any action it takes is the minimum required to solve the problem, taking into account relevant personal circumstances including the seriousness of the complaint and the needs of the individual.

Where a complainant repeatedly phones, visits the office, raises repeated issues, or sends large numbers of documents where their relevance is not clear, the Comhairle may decide to:

- limit contact to telephone calls from the complainant at set times on set days
- restrict contact to a nominated member of staff who will deal with future calls or correspondence from the complainant
- see the complainant by appointment only
- restrict contact from the complainant to written form only
- return any documents to the complainant or, in extreme cases, advise the complainant that further irrelevant documents will be destroyed
- take any other action which the Comhairle considers appropriate.

Where the Comhairle considers continued correspondence on a wide range of issues to be excessive, it may tell the complainant that only a certain number of issues will be considered in a given period and it will ask them to limit or focus their requests accordingly.

In exceptional cases, the Comhairle reserves the right to refuse to consider a complaint or future complaints from an individual.

It will take into account the impact on the individual. The Comhairle will always tell the complainant what action is being taken and why.

Procedure to Implement Policy

- 5.1 Any member of Comhairle staff who directly experiences aggressive or abusive behaviour from a complainant has the authority to deal immediately with that behaviour in a manner which they consider appropriate to the situation and in line with this Policy.
- 5.2 With the exception of immediate decisions taken at the time of an incident, decisions to restrict contact with the Comhairle are only taken after careful consideration of the situation by the relevant Head of Service. Wherever possible, the Comhairle will give a complainant the opportunity to modify their behaviour or action before a decision is taken.

Informing Complainant of Decision

- 6.1 When a Comhairle employee makes an immediate decision in response to aggressive or abusive behaviour, the complainant is advised at the time of the incident. When a decision has been made by the Head of Service, a complainant will always be told in writing why a decision has been made to restrict future contact, the restricted contact arrangements and, if relevant, the length of time that these restrictions will be in place. This ensures that the complainant has a record of the decision.

Right of Appeal

- 7.1 A complainant can appeal against a decision to restrict contact. If they do this, the Comhairle will only consider arguments which relate to the restriction and not to either the complaint made or the decision to close the complaint.
- 7.2 An appeal could include, for example, a complainant stating that: their actions were wrongly identified as unacceptable; the restrictions were disproportionate; the restrictions will adversely impact on the individual because of personal circumstances.
- 7.3 A Head of Service not involved in the original decision will consider the appeal. They will have discretion to quash or vary the restriction as they think best. They will make their decision based on the evidence available to them. They must advise the complainant in writing that either the restricted contact arrangements still apply or a different course of action will be taken.

Recording and Reviewing of a Decision to Restrict Contact

- 8.1 All incidents of unacceptable actions by complainants are recorded. Where it is decided to restrict complainant contact, an entry to this effect is made in the relevant file and on appropriate records. A decision to restrict complainant contact as described above may be reconsidered if the complainant demonstrates a more acceptable approach. A member of the Corporate Management Team will, on a regular basis, review the status of all complainants with restricted contact arrangements.