

BABERGH DISTRICT COUNCIL

FROM: Monitoring Officer

REPORT NUMBER: **K116**

TO: STANDARDS COMMITTEE

DATE OF MEETING: 15 October 2010

POLICIES FOR DEALING WITH (A) UNREASONABLE COMPLAINANT BEHAVIOUR AND (B) UNREASONABLY PERSISTENT COMPLAINANTS

1. PURPOSE OF REPORT

1.1 Generally, dealing with a complaint is a straightforward process, but in a very small number 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.

1.2 This report proposes policies for dealing with unreasonable behaviour.

2. RECOMMENDATIONS TO COUNCIL

2.1 That the policies for dealing with unreasonable behaviour by complainants and with unreasonably persistent complainants set out in Appendix 1 and Appendix 2 to this report be adopted.

2.2 The Committee is asked to make a recommendation to Full Council on the above matters.

3. FINANCIAL IMPLICATIONS

3.1 There are no significant financial implications arising from the matters contained in this report

4. RISK MANAGEMENT

4.1 This report is most closely linked with the Council's Significant Business Risk No. 4 (Governance). Key risks are set out below:

Risk Description	Likelihood	Seriousness or Impact	Mitigation Measures
Complaints are not addressed effectively.	High	Critical	Identify where/why inefficiencies are arising
Impact on Council resources in dealing with unreasonable/unreasonably persistent complaints	High	Critical	Adopt a policy on how unreasonable/unreasonably persistent complaints are managed

5. KEY INFORMATION

- 5.1 The Council receives approximately 35 formal complaints each year and seeks to deal with these in a comprehensive and equitable manner, and learn any lessons that may arise.
- 5.2 Nearly all complaints received are taken through to a satisfactory end – albeit that the complainant does not always get the result they were seeking, but can see that a comprehensive and equitable review of the complaint has taken place.
- 5.3 The vast majority of people who complain will genuinely feel aggrieved by a Council action or decision, and it is very unusual for officers to have to deal with complainants who behave unreasonably or are unreasonably persistent. However, when this does happen, these situations can be very emotionally charged, distressing for all involved and place heavy demands on staff time.
- 5.4 It is important to differentiate between 'persistent' complainants and 'unreasonably persistent' complainants. People may be 'persistent' on the entirely reasonable basis that they feel the Council has not dealt with their complaint properly or in a timely manner.
- 5.5 On the other hand, a persistent complainant who has a genuine grievance may also take unreasonable steps to seek redress or may persist in pursuing a complaint where the Council's Complaints Procedure has been fully and properly implemented and exhausted.
- 5.6 The policies set out in Appendices 1 and 2 are intended to ensure that complainants are dealt with in ways that are demonstrably consistent and fair. The policies reflect closely the advice of the Local Government Ombudsman Service, which operates its own policies on unreasonably persistent complainants and unacceptable behaviour.
- 5.7 If these policies are adopted, a guidance note will be circulated to assist people in understanding the circumstances that might trigger the operation of the policies and the procedures that should be followed.

6. APPENDICES

- (a) Appendix 1 - Policy on Unreasonable Complainant Behaviour
- (b) Appendix 2 - Policy on Unreasonably Persistent Complainants

7. BACKGROUND PAPERS REFERRED TO:

1. Local Government Ombudsman Policy on unreasonably persistent complainants, December 2005;
2. Local Government Ombudsman Service Guidance note on 'unreasonably persistent complainants' and 'unreasonable complainant behaviour', January 2007 (Revised April 2009)

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POLICY ON UNREASONABLE COMPLAINANT BEHAVIOUR

Generally

The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service the Council does not normally limit the contact complainants have with it.

Unreasonable behaviour

However the Council does not expect its staff to tolerate behaviour by complainants which is unreasonable, for example, which is abusive, offensive or threatening, and will take action to protect staff from that behaviour.

When the Council considers that a complainant's behaviour is unreasonable the complainant will be told why their behaviour is unreasonable and will be asked to change it. If the unreasonable behaviour continues, action will be taken to restrict the complainant's contact with the Council.

Decision to restrict access

The decision to restrict access will be taken at Director level or above.

Restrictions which may be imposed

Any restrictions imposed will be appropriate and proportionate. The options most likely to be considered are:

- requesting contact in a particular form (for example, letters only);
- requiring contact to take place with a named officer;
- restricting telephone calls to specified days and times; and/or
- asking the complainant to enter into an agreement about their conduct.

Notification in writing

In all cases complainants will be informed in writing why it is believed that their behaviour is unreasonable, what action is being taken and the duration of that action. Complainants will also be told how they can challenge the decision if they disagree with it.

Terminating contact with a complainant

Where a complainant continues to behave in a way which is unreasonable, the Council may decide to terminate contact with that complainant.

Extreme unreasonable behaviour

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

New complaints

New complaints from people who have come under the unreasonable complainant behaviour policy will be treated on their merits.

POLICY ON UNREASONABLY PERSISTENT COMPLAINANTS

Generally

The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service the Council does not normally limit the contact complainants have with it.

Unreasonably persistent complainants

However there are a small number of complainants who, because of the frequency of their contact with the Council's offices, hinder consideration of their, or other people's complaints or the efficient conduct of Council business. Such complainants are referred to as 'unreasonably persistent complainants' and, exceptionally, action will be taken to limit their contact with the Council.

Decision to restrict access

The decision to restrict access will be taken at Director level or above and will follow a prior warning to the complainant.

Restrictions which may be imposed

Any restrictions imposed will be appropriate and proportionate. The options most likely to be considered are:

- requesting contact in a particular form (for example, letters only);
- requiring contact to take place with a named officer;
- restricting telephone calls to specified days and times; and/or
- asking the complainant to enter into an agreement about their future contacts with the Council.

Notification in writing

In all cases complainants will be informed in writing as to why the Council has decided to treat them as an unreasonably persistent complainant, why it is believed that their behaviour falls into that category, the action being taken and the duration of that action. The complainant will also be told how he or she can challenge the decision if they disagree with it. If the Council decides to carry on treating someone as an unreasonably persistent complainant and their complaint is still being investigated six months later, a review will be carried out to decide if restrictions will continue.

Terminating contact with the complainant

Where a complainant whose case is closed persists in communicating with the Council about it, the Council may decide to terminate contact with that complainant. In such cases all correspondence from that complainant will be read but, unless there is fresh evidence which affects the decision on the complaint, the Council will, on the first occasion, simply acknowledge its receipt and any subsequent communications will be placed on the file without acknowledgement.

New complaints

New complaints from people who have come under the unreasonably persistent complainants policy will be treated on their merits.