



# Procedure for dealing with Unreasonably Persistent Contact and Unreasonable Behaviour

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This procedure will be reviewed on an annual basis.

## Introduction

Derbyshire County Council is committed to the highest of standards of conduct in working with members of the public. We work together to improve lives across Derbyshire by delivering high quality services, in line with our Customer Charter. We will not tolerate any abuse, aggression, discriminatory behaviour or violence towards our staff.

Employees of Derbyshire County Council will:

- Always treat members of the public and those who are accessing a service with courtesy and respect
- Attend appointments on time or let individuals know in advance if they are unable to
- Provide those who are accessing a service with accurate information
- Treat all our customers fairly and equally
- Follow process and procedure

In return, we ask members of the public and those accessing services to:

- Always treat our staff with courtesy and respect
- Use our website to access our services where able to do so
- Let us have any information needed to enable us to help and if reasonable adjustments are required under the Equality Act 2010
- Tell us if circumstances change
- Be on time for any appointments or let us know in advance if you are unable to attend

Having a procedure on unreasonably persistent contact and unreasonable behaviour helps the council to continue to work with all members of the public in ways which are consistent and fair. **Staff safety and wellbeing are paramount when dealing with unreasonable behaviour and communication.** The procedure is not limited to those who raise complaints and applies to all contact with the council including written all communications.

## Human rights

In applying this procedure, the council will make sure that our actions are in accordance with the Human Rights Act 1998 and the Convention Rights within it. The council will also consider if an individual's actions could be due to unmet communication or support needs and the council will have regard to their duty to make reasonable adjustments under the Equality Act 2010.

## Definitions

It is recognised that many customers act in a legitimate but persistent manner to pursue their queries or complaints. Therefore, it is important to recognise the difference between “persistent” and “unreasonably persistent” actions.

### Unreasonably persistent contact

Examples of unreasonably persistent contact include but are not limited to:

- Repeated contact about the same issue or service, without regard to stated or agreed timescales for a response
- Continual contact about an issue after a response has been made and the issue has been deemed to be complete
- Failure to co-operate with established procedures or agreed timescales
- Excessive contact across a range of services in a short period
- Introduction of trivial or irrelevant new information and expecting it to be considered and commented on or raising large numbers of detailed but unimportant questions and insisting they are all fully answered
- Adoption of a ‘scattergun’ approach - pursuing correspondence or complaint with one department and, at the same time, with other departments within the authority and/or with other parties
- Making excessive demands on the time and resources of staff, for example, excessive telephoning or sending e-mails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses
- Submission of repeat complaints, after the complaints process has been completed, essentially about the same issue but with additions/variations which the complainant insists make these ‘new’ complaints which they want to be put through the full complaints procedure
- Refusal to accept a decision, repeatedly arguing the point and complaining about the decision.

This list is not exhaustive and unreasonably persistent behaviour is not limited to one, or a combination of any, of the above.

### Unreasonable behaviour

Unreasonable behaviour can come about when the situation between the council and a member of the public/ person receiving a service escalates and the behaviour becomes unacceptable e.g. abusive, offensive, or threatening. Examples of unreasonable behaviour include:

- Being abusive, threatening or acting in a manner intended to intimidate staff. This includes any use of racist, sexist, homophobic or other discriminatory language, shouting or swearing. Putting, or threatening to put information on social media or websites which includes personal information of the council's employees without their consent and/or making defamatory statements about employees online
- Refusal by a complainant to specify the grounds of a complaint, despite offers of assistance from council staff and or refusal to accept that issues raised are not within the remit of the council's complaints procedure
- Refusal to co-operate with a council process
- Making apparently groundless complaints/allegations about staff and seeking to have those staff removed/replaced
- Entering DCC establishments uninvited and making demands to members of staff
- Attending the home of an elected member or council employee
- Approaching members of staff when they are not at work to raise a work-related issue
- Misusing technology, for example: Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved and without good reason, putting recordings online without the consent of those being recorded, live broadcasting interactions with council officers or members without their consent, or manipulating or editing recordings

This list is not exhaustive and unreasonable behaviour is not limited to one, or a combination of any, of the above.

## **Dealing with unreasonably persistent contact**

The decision to designate someone as unreasonably persistent can be made by the nominated officer responsible for complaints within the department, however, consideration should be given to the need for legal advice. As appropriate, officers and members of the council should be informed that contact with a named person is being restricted, the reasons why and who will have access to that information on request.

### **Assessing whether further action is proportionate and necessary**

The council will not apply a blanket approach in responding to unreasonable actions and communications and will consider the circumstances of each individual case.

Where an individual's actions are considered unreasonable, it may be appropriate to speak with other teams, departments and external bodies (e.g. mental health services) involved to share information for the purposes of safeguarding, and exploring other ways in which they can be supported through inter or cross-organisational working.

Consideration of the following points, together with any other relevant factual information, will also be necessary to assess whether the proposed action is proportionate and necessary:

- Have communications with the individual been adequate, clear and coordinated?
- Are the considerations/decisions reached, being explained appropriately in a way that can be clearly understood by the individual (with consideration to reasonable adjustments)?
- Are due process and procedure being followed and correct timescales being adhered to?
- Has the individual been advised of any delays that may have occurred?
- Have the specific paths for complaint or appeal processes been appropriately used by the individual?
- Has consideration been given to individual communication needs (with consideration to reasonable adjustments)?
- Is more than one department or service area being contacted unreasonably persistently? If so, consideration could be given to setting up a strategy meeting to agree a cross-service approach and designate a key officer to co-ordinate the council's response

Having taken into account the above points, consideration should be given to whether further action is necessary prior to making the decision to designate the individual as unreasonably persistent.

When specifically in relation to a complaint:

- Have complaints received by the individual been investigated properly and in accordance with the council's procedure for investigating complaints? Is the complainant now providing any significant new information that might affect the council's view of the complaint?
- Have any meetings taken place with the complainant? If not, a risk assessment should be completed and unless there is a known risk about such a meeting, it should be considered if a meeting would be likely to help the situation. The complainant may be accompanied by an advocate

## Dealing with unreasonable behaviour

The council has a duty to ensure the health, safety and welfare of its staff and it does not expect staff to tolerate language or behaviour which is abusive, offensive, or threatening. Staff members should, in the first instance, give informal warnings to individuals who act in an unreasonable way.

If behaviour does not change or the situation requires it, a formal warning should be considered and a formal risk assessment must be completed regarding an individual's contact with the council and shared with broader partners and colleagues with adherence to appropriate information sharing guidance and general data protection regulation considerations.

### Telephone Contact

During a telephone conversation, if staff consider that the caller is becoming aggressive and/or offensive, they will inform the caller that they will terminate the conversation unless such behaviour ceases. If the aggression continues, the member of staff will terminate the call, and a note will be placed on file explaining why the call was terminated. Repeated calls of this nature are considered to be unacceptable and should be reported to a senior officer or nominated departmental complaints manager to determine appropriate action.

### Written contact

If a member of staff receives any written communications that is considered unreasonable, this includes, but not limited to abusive or threatening language, the member of staff will not respond immediately and may inform the individual that there will be no action or formal response to their communication until it is resubmitted in a respectful way. Repeated communication of this nature is considered to be unacceptable and should be reported to a senior officer or nominated departmental complaints manager to determine appropriate action.

### Personal Contact

Visitors to council premises may show aggressive behaviour when they do not achieve the aim of their visit. Triggers for unreasonable behaviour can include:

- Not being able to see the person they hold responsible for their current situation or discontentment
- Not being allowed instant access to the Managing Director, or other senior leader
- Not being able to resolve their concerns during their visit

Examples of aggressive and unreasonable behaviour can include but is not limited to:

- Shouting loudly and making demands to see the officer they hold responsible
- Making threats to members of staff who are trying to help
- Using abusive and upsetting language to members of staff
- Refusing to leave until the problem is resolved
- Their continued presence causes disruption/distress to other visitors

This list is not exhaustive and unreasonable behaviour is not limited to one, or a combination of any, of the above. Where the behaviour is so extreme that it threatens the immediate safety and welfare of the council's staff, other options will be considered, for example, reporting the matter to the police or taking legal action. In such cases, the individual may or may not be given prior warning of that action.

### **Formal warning**

Members of staff who feel threatened or intimidated by the language or behaviour of a member of the public or person receiving a service should report their concerns to their head of service and nominated departmental complaints manager who will consider:

- Whether to issue the individual with a formal warning, requiring them not to repeat the behaviour and, if necessary, setting conditions and restrictions for further contact with staff
- Whether to report the incident to the police. This procedure sits alongside existing policies as a means of addressing the full spectrum of behaviours which the council may need to address and where appropriate it may be useful to refer to the council's [Personal safety at work guidance](#) and the [serious threat response protocol](#)

Such incidents should also be logged on the council's incident reporting system.

### **Applying restrictions**

In most instances before applying any restrictions, the individual should be given a warning in writing that if their actions continue, the council may decide to treat their contact as unreasonably persistent or their behaviour unreasonable and explain why. This gives individuals an opportunity to modify their actions. Should individuals continue to act in an unreasonable way, then the matter should be escalated for further consideration.

The precise nature of the action the council decides to take should be appropriate and proportionate to the nature and frequency of the contacts with the council at that time. It is important, however, to ensure that due process and procedure has been followed and the restrictions do not prevent an individual having opportunity for their voice to be heard.

The following is a list of some possible actions for managing an individual's involvement with the council:

- 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 day of any week
- Limiting the contact to one method of communication, for example, telephone, letter, e-mail and/or requiring the individual to communicate with one named member of staff (having regard to any agreed reasonable adjustments)
- Requiring personal contacts to take place in the presence of a witness
- Placing correspondence on file without acknowledgement or reply
- Restricting access to certain buildings or premises controlled by the council
- Refusing to register/process further complaints or respond to correspondence about the same matter
- Restricting access to discretionary services

The list is not exhaustive and local case by case factors may be relevant in deciding appropriate action.

### **Considering the impact of restrictions on others**

In some cases, restricting an individual's contact with the council may have an adverse impact on others. The council will consider the impact restrictions may have on others when reaching a decision on what restrictions are appropriate and mitigate against this.

This could include:

- Requiring an individual subject to restrictions to be accompanied by another person when visiting council premises or meeting an officer
- Putting in place alternative visiting arrangements, such as meeting outdoors or at another venue
- Facilitating video calls, where there is a risk to staff or others, in allowing a person to be physically present in the building



## Application of the procedure

If the decision is made to apply the procedure, the relevant head of service or officer responsible for complaints will write to the individual to:

- Inform them that the decision has been taken to invoke the procedure
- Outline the actions the council considers unreasonable, including examples
- Explain what it means for their contact with the council
- Explain how long any restrictions will last or will be reviewed
- Explain the consequences of failing to address their actions
- Include consideration of any reasonable adjustments under the Equality Act 2010
- Enclose a copy of the procedure with the letter and details of the organisation's complaints process if the person is unhappy with their warning

Where a head of service writes to the individual, this must be agreed with the departmental officer responsible for complaints.

## Records

Adequate records must be kept of all contacts with those individuals who make unreasonably persistent contact with the council and individuals behaving unreasonably. The information should be stored by the departmental officer responsible for complaints in line with retention schedules, treated as confidential and only shared where there is a legitimate need to do so.

Key information to be recorded includes:

- When a decision is taken to apply, or not to apply, the procedure following a request to do so by a member of staff
- When a decision is taken to make an exception to the procedure after it has been applied, for example, if extenuating circumstances subsequently come to light
- When a decision is taken, and the reason, not to put a further complaint from the same complainant through the complaints process
- When a decision is taken not to respond to further correspondence, having made sure that any further communications from the individual do not have any significant new information

## Reviews of decisions

Reviews of decisions to restrict an individual's contacts, or the council's responses to those contacts, should be carried out in accordance with agreed

timescales or at least every 12 months by the nominated departmental officer responsible for complaints in liaison with the management team. When the council reviews restrictions placed on an individual it will write to them to advise them of its decision. If restrictions are to remain in place the council will explain its reasons. If restrictions are lifted the council may choose to warn the individual about their future conduct and urgent assessment may be necessary to re-introduce them if behaviour which led to the original decision recommences.

## **Further action**

In a small number of cases decisions to restrict contact have no effect. In most cases, restrictions put in place will help staff to manage the impact this has on services. However, in the most serious cases, further action and/ or legal restrictions may be necessary, particularly where actions are having an adverse impact on staff welfare.

## **Staff wellbeing**

If a member of staff is affected by the correspondence receive or interactions with members of the public, they should discuss this with their line manager and access the [employee assistance programme](#) for any additional support.

## **Relationship with other procedures/policies**

This procedure should be read in conjunction with the following and any other council policies, as appropriate:

- Corporate Complaints Policy
- Health & Safety Policy
- Equality and Diversity Policy
- Employee Code of Conduct
- Customer Charter

## **Where communication or behaviours relate specifically to a complaint**

### **Completed complaints**

Where a complaint has gone through stage 2 of the council's corporate complaints procedure, it must be outlined to the complainant that if they are still not satisfied then they can take the complaint to the Local Government and Social Care Ombudsman. Should correspondence from the complainant continue, then the nominated departmental complaints manager will write to the complainant to inform them that the matter is at an end and the council will not enter into further correspondence about the complaint and any further

letters on the same subject will be read and placed on file, but will receive no further acknowledgement or response.

### **Future complaints by the same complainant**

When/if the complainant makes a complaint about a new concern, this should be suitably reviewed as to whether the information is a genuine complaint and should be triaged appropriately in line with the relevant complaint procedure. A decision will need to be taken on whether any restrictions which have been applied before are still appropriate/necessary.

### **Referral to the Local Government and Social Care Ombudsman**

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 council's complaints procedure. Where this occurs, the Ombudsman may be prepared to consider a complaint before the council's complaints procedure has been exhausted.

A complainant who has been designated 'unreasonably persistent' or using 'unreasonable behaviour', may make a complaint to the Ombudsman about the way in which they have been treated. The Ombudsman is unlikely to be critical of the council's action if it can be shown that the council's procedure has been operated properly and fairly.