



REPORT TO EXECUTIVE

PORTFOLIO AREA: FINANCE AND PERFORMANCE MANAGEMENT

Date of Meeting: 19th March 2007

Public

Key Decision: Yes

Recorded in Forward Plan:

Yes

Inside Policy Framework Yes

Title: Unreasonable And Unreasonably Persistent Complaints
Policy

Report of: Head of Policy and Performance

Report reference: PPP 12/07

Summary:

The report presents the draft Unreasonable and Unreasonably Persistent Complaints Policy (Appendix 1) that will complement existing corporate complaints policies and procedures.

Recommendations:

The Executive Committee is requested to:

1. Consider and comment upon the draft policy
2. Refer the draft policy to the Corporate Resources Overview and Scrutiny Committee for consultation

Reasons for recommendations:

The Council to adopt an Unreasonable and Unreasonably Persistent Complaints Policy that complements existing corporate complaints policies and procedures and that will contribute towards efficiency and effectiveness of Council activities.

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Note: in compliance with section 100d of the Local Government (Access to Information) Act 1985 the report has been prepared in part from the following papers: Guidance note on “unreasonably persistent” complainants and “unreasonable complainant behaviour” Local Government Ombudsman. January 2007

Background

Carlisle City Council is committed to providing responsive and accessible services, including dealing with genuine enquiries and requests for information, appropriately and in a timely manner. However, we are aware of the need to ensure that our time is not taken up pursuing unreasonable and unreasonably persistent enquiries or complaints, or unreasonable requests for information under the Freedom of Information Act (2000). We also need to ensure that our staff and councillors are protected from unacceptable behaviour.

Carlisle City Council is committed to promoting equality of opportunity and diversity, and to challenging discrimination. Staff and Councillors working for the Council have a right to undertake their work free from all types of discrimination, abuse and harassment.

The Council has a duty to ensure that it provides value for money services for all its residents and local communities. An unreasonable or unreasonably persistent complaint can take up a disproportionate amount of Council time, which can hinder other Council work. The Council must therefore ensure that it limits the amount of time spent on complaints and other queries that it considers unreasonable and unreasonably persistent.

The policy was developed based on good practice from other local authorities and guidance notes from the Local Government Ombudsman – released January 2007.

Appropriate amendments will be made to the existing corporate complaint policies and procedures to incorporate the new policy.

The Unreasonable and Unreasonably Persistent Complaints Policy is not tested and will be reviewed appropriately following implementation.

1. Consultation

To date: Senior Management Team, Service Heads, Corporate Complaints Officer

Planned: Corporate Resources Overview and Scrutiny Committee

2. Implications

- Staffing/Resources – within existing staffing resources.

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- Financial – none.
- Legal – None
- Corporate – the policy will form part of the Council's policy framework and enable the council to deal with unreasonable and unreasonably persistent complainants in a robust and consistent manner.
- Risk Management – the way we deal with complaints could have a negative impact on the Council through media coverage or through adverse action from the Local Government Ombudsman. The Council has a duty to protect the safety and welfare of its staff and Councillors. We therefore shall not tolerate what we consider to be unacceptable behaviour by unreasonable or unreasonably persistent complainants.
- Equality Issues – Carlisle City Council is committed to promoting equality of opportunity and diversity, and to challenging discrimination. Staff and Councillors working for the Council have a right to undertake their work free from all types of discrimination, abuse and harassment.
- Environmental – none.
- Crime and Disorder – none.
- Impact on Customers – An unreasonable or unreasonably persistent complainant can take up a disproportionate amount of Council time that can hinder other work of the Council. The Council must therefore ensure that it limits the amount of time spent on queries that it considers unreasonable or unreasonably persistent.

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**Appendix 1**

Policy Document Control Page		
Title	Title Version	Unreasonable and Unreasonably Persistent Complainants Policy v5.0
Description		This policy describes how to deal with unreasonable or unreasonably persistent complainants to the council. It makes clear how a complaint of this nature will be dealt with for both the council and the complainant.
Related Policies and Acts	Acts Policies	Freedom of Information Act, Data Protection Health & Safety Policy, Equal Opportunities in Employment, Dignity & Respect Policy,
Originator	Author Section	 Policy and Performance Team
Consultation Process	Referred to and Date	Corporate Complaints Officer, November 2006 SMT and Service Heads, December 2007 Executive Committee, 19 March 2007 Corporate Resources Overview & Scrutiny Committee, 12 April 2007 Executive Committee, 23 April 2007
Circulation	To who: Date	All staff
Review	Review Date: Responsibility	Ongoing following implementation Corporate Complaints Officer
For Further Reference		Guidance note on “unreasonably persistent” complainants and “unreasonable complainant behaviour,” Local Government Ombudsman. January 2007

1. BACKGROUND AND INTRODUCTION

Carlisle City Council is committed to providing responsive and accessible services including dealing with genuine enquires, requests for information and complaints appropriately and in a timely manner. However, we are aware of the need to ensure that our time is not misused and public money is not misspent pursuing unreasonable or unreasonably persistent complainants. We also need to ensure that our staff and councillors are protected from unacceptable behaviour.

The Council has a duty to ensure that it provides value for money services for all its residents and local communities. An unreasonable or unreasonably persistent complainant can take up a disproportionate amount of Council time that can hinder other work of the Council. The Council must therefore ensure that it limits the amount of time spent on queries that it considers unreasonable or unreasonably persistent.

Carlisle City Council is committed to promoting equality of opportunity and diversity, and to challenging discrimination. Staff and Councillors working for the Council have a right to undertake their work free from all types of discrimination, abuse and harassment.

The Council has a duty to protect the safety and welfare of its staff and councillors. We therefore shall not tolerate what we consider to be unacceptable behaviour by unreasonable or unreasonably persistent complainants. Our Constitution states that, 'Citizens must not be violent, abusive or threatening to councillors or officers, and must not wilfully harm things owned by the Council, councillors or officers'¹.

We would not normally limit the contact that our citizens may have with the Council. However, in accordance with this policy, we may decide to do so if complainants behave unreasonably or are unreasonably persistent, or staff or councillors experience unacceptable behaviour.

2 DEFINITIONS

For the purposes of this policy, unreasonable or unreasonably persistent complainants are those which make complaints that:

- clearly do not have any serious purpose or value
- are designed to cause disruption or annoyance
- have the effect of harassing the Council or,
- can otherwise fairly be characterised as obsessive or manifestly unreasonable

¹ Carlisle City Council, Constitution, para 3.02 Citizens Responsibilities, Article 3,

- are categorised as vexatious or repeated under Section 14 of the Freedom of Information Act

An unreasonable or unreasonably persistent complainant could be someone who:

- Is repeatedly unwilling to accept documented evidence
- Is insistent that no response has been received
- Sends a high volume of letters, emails and / or phone calls
- Keeps adding new complaints and concerns
- Makes trivial complaints
- Repeatedly complains or makes repeated requests about similar issues after they have already been dealt with
- Makes many complaints about different issues

Unacceptable behaviour can include

- Abusive, offensive or threatening behaviour

Examples of some of the main kinds of 'trigger' actions/behaviours which may cause the policy to be invoked.

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the Council's staff
- Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have the staff replaced
- Making unnecessarily excessive demands on the time and resources of staff or whilst a complaint is being looked into, by for example, excessive telephoning or sending emails to numerous council staff, writing numerous, lengthy complex letters and expecting immediate responses
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved
- A combination of any or all of the above

For more examples see the Local Government Ombudsman Guidance notes available from the Corporate Complaints Officer.

3 THE PROCESS

If any member of the authority experiences one example or a number of the examples given in the definitions section above then they may be dealing with an unreasonable or unreasonably persistent complainant. In this instance they are advised to follow the process below:

- Firstly, inform their line manager and then the Corporate Complaints Officer about the complainant and any related correspondence or incidents.
- The Corporate Complaints Officer will then decide if they think it is necessary to invoke the policy.
- If the decision is made to invoke the policy then the Corporate Complaints Officer will put a case together explaining why the complainant is to be designated as “unreasonable or unreasonably persistent” under the policy and suggest the causes of action that should be taken (refer below).
- The Head of Policy and Performance will then take the case to Senior Management Team who then make a decision about whether to endorse the recommendations.

The decision to designate someone as an unreasonable or unreasonably persistent complainant is onerous and could have serious consequences for the individual. Before deciding whether the policy should be applied the Council should be satisfied that:

- the complaint is being or has been investigated properly
- any decision reached on it is the right one
- communications with the complainant have been adequate and,
- the complainant is not providing any significant new information that might affect the authority’s view on the complaint.

Once satisfied with the points above then the Council should consider whether further action is necessary prior to taking the decision to designate the complainant as unreasonable or unreasonably persistent. Examples might be:

- If no meeting has taken place between the complainant and an officer/officers, and provided that the authority knows nothing about the complainant which would make this inadvisable, consider offering the complainant a meeting with an officer of appropriate seniority. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution.

- If more than one department is being contacted by an unreasonably persistent complainant, consider:
 - setting up a strategy meeting to agree a cross-departmental approach; and
 - designating a key officer to co-ordinate the authority's response(s).
- If the complainant has special needs, an advocate might be helpful to both parties: consider offering to help the complainant find an independent one.
- Before applying any restrictions give the complainant a warning that if his/her actions continue the authority may decide to treat him/her as an unreasonably persistent complainant, and explain why.

The precise nature of the action that the Council takes will be appropriate and proportionate to the nature and frequency of the complainants' contacts and with the Council at that time. The council should choose one or a mix of the following possible options (this list is not exhaustive):

- 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 morning/afternoon of any week)
- Limiting the complainant to one medium of contact (telephone, letter, email, etc) and/or requiring the complainant to communicate only with one named member of staff
- Requiring any personal contacts to take place in the presence of a witness
- Refusing to register and process further complaints about the same matter
- Restrict the complainant's contact and / or access to the Council offices (to be reviewed after a period of time)

Where the behaviour is considered to be harassing/aggressive:

- Extreme behaviour that threatens staff or Councillor safety and welfare may lead to police involvement or legal action. In such cases, the Council may not give the complainant prior warning of this action.

If the Council decides to designate a complainant as unreasonable or unreasonably persistent then the Council will communicate to the complainant, in accordance with their needs, in the following ways;

- sending a copy of this policy
- explaining why they are applying the policy to the complainant
- detailing what it means for their future contact with the council and how long any restrictions will last
- explain how the complainant may challenge this if they disagree with the course of action

The complainant can challenge the action taken by the Council by reference to the Resolve Mediation Service. This is a community mediation service that has been set up to help neighbours who are in dispute to find a way of improving things.

If this course of action fails to resolve the issue, the complainant can contact the Local Government Ombudsman to request an independent investigation of the original complaint.

4 INFORMATION AND RECORD KEEPING

If this policy is applied to a complainant then recording of the following is necessary:

- any correspondence or interactions with the complainant written, verbal (to be documented) e-mail or otherwise should be saved in a file with the time and date of the occurrence
- all the details of the complainant must be recorded, including name, address, telephone number, and any other relevant details

The number of unreasonable or unreasonably persistent complaints is to be reported on an annual basis for monitoring purposes.

5 HOW THE POLICY LINKS TO OTHER POLICIES / ACTS

- If a member of staff or Councillor feels that they are unsafe or unfairly treated by a member of the public in dealing with a situation involving a complainant then the Health and Safety Policy, Dignity and Respect Policy and Equal Opportunities Policy would also apply in these circumstances.

- The Freedom of Information Act (Section 14) covers vexatious and repeated requests for information. Section 14 of this Act should be referred to in conjunction with this policy. This Act gives councils the right to refuse information to members of the public on grounds that the request is vexatious or unnecessarily repeated.
- The Data Protection Act is important when storing information about complainants and must be referred to for reference. Information can only be stored on complainants for the necessary period of time.