



# **Unreasonable Behaviour Policy**

February 2022

## **1. INTRODUCTION**

- 1.1. Article 2 of the Council Constitution gives residents the right to complain. Article 2 also explains the corresponding duty on residents to act reasonably when dealing with the Council. We are committed to dealing with all complaints fairly and comprehensibly.
- 1.2. This unreasonable behaviour policy is required because a small minority of those who make complaints act unreasonably. The policy is intended to explain to residents what happens when the duty to act reasonably is not complied with.

## **2. PURPOSE/STANDARD REQUIRED**

- 2.1 The purpose of the policy is to give guidance on when a complainant's behaviour has become unreasonable. It identifies situations where a complainant, either individually or as part of a group of complainants, might be unreasonable.
- 2.2 This policy and associated procedures apply where unreasonable behaviour is identified. For the purposes of this policy the term 'complaint' includes requests made under the Freedom of Information Act 2000, the Data Protection Act 2018 and/or the UK General Data Protection Regulation.

## **4. EXAMPLES OF UNREASONABLE BEHAVIOUR**

- 4.1 Demonstrating unreasonable behaviour is defined by the Local Government & Social Care Ombudsman as "...those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints."

Examples of the types of behaviour that this policy covers can 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):

- Refusing to specify the grounds of a complaint, despite offers of help.
- Refusing to cooperate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues and seeking to have them replaced.

- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising many detailed but unimportant questions, and insisting they are all answered.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with various service areas organisations.
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous ADC staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.
- Raising a formal complaint for very minor problems
- Continuing to complain about an issue despite explanation that the issue is caused by something beyond the Council's control
- Using abusive or aggressive language in correspondence or contact which may also constitute nuisance, conduct or anti-social behaviour and may be dealt with under ADC's Customer of Concern Protocol

4.2 In all cases where it is considered that a complainant's behaviour may be becoming unreasonable, a referral is to be made to the Information Management Team who will review the matter in consultation with the relevant Group Head and make a determination as to whether or not this Policy applies. If it is considered that that the behaviour displayed may be for a reason related to disability and/or any language barrier the Group Head of Policy will also be contacted for advice.

4.3 Before treating behaviour as unreasonable, the complainant will be given a copy of this Policy along with notice of its possible implementation and given the opportunity to amend their behaviour.

4.4 Where there is no change in behaviour or the behaviour or the behaviour has been identified as unreasonable in accordance with this Policy the Information Management Team will review the matter with the relevant Group Head and obtain agreement to treat the complainant as unreasonable and for this policy

to be applied. Matters to be considered and satisfied as part of this review will include (this list is not conclusive or exhaustive):

- That the complaint is being or has been properly investigated;
- That any decision reached on the complaint is the right one;
- That communications with the complainant have been adequate; and
- That the complainant is not now providing any significant new information that might affect ADC's view on the complaint
- The proportionality and appropriateness of the proposed restriction in comparison with the behaviour and the impact on staff.

## **5. OPERATING THE POLICY**

5.1 If a decision has been made that the policy is to be applied the relevant Group Head will decide how complaints are dealt with going forward. This may mean that the complainant is advised as follows (this list is not conclusive or exhaustive):

- that all complaints must be put in writing only
- that telephone contact is prohibited
- that ADC will accept contact with the complainant via only one method of communication only (either in person, by telephone, letter, email or any combination of these)
- that all communication must be made to one named officer or email address only
- that unless in the case of an emergency response is due the complaints will be limited, for example, to once per week and/or
- that ADC has no option but to consider taking legal action

5.2 The methods above can be used singularly or in combination depending on the circumstances of the matter and whether the complaint remains ongoing or is concluded. These methods are to ensure that officer time is not unreasonably expended responding repeatedly to unreasonable complaints.

## **6. NOTIFICATION TO COMPLAINANT**

6.1 Once a decision has been made that this Policy shall apply, the Information Management Team will notify the complainant in writing of:

- the reasons their conduct has been treated as unreasonable;

- the action that will be taken and details of any restrictions placed on the complainants contact with ADC (see 7.1);
- How long any restrictions will last (for example 6 months, 1 year, etc); and
- The complainant's right to a review of the decision and the steps required to engage the review process

## **7. REVIEW**

- 7.1 A review of the decision to treat the complainant as unreasonable will be carried out after a period of 6 months. The complainant will be informed of the outcome. If restrictions are to continue to be applied a new review date will be set.

## **8. REPETITIOUS COMPLAINTS**

- 8.1 If a complainant makes a complaint that is essentially about the same matter as a previously concluded complaint and does not contain any new information, then in the event that the complainant has not used all stages of the complaints procedure they should be advised to proceed to the next stage up to and including the final stage of the relevant complaint policy or procedure.
- 8.2 If the complainant has had a decision from the Ombudsman that is not in their favour then they should be advised in writing that the matter has been concluded and that ADC will not respond to any further correspondence or complaints relating to the same issue. Where a complaint is under consideration new items, unless they relate in substance to the matter which is being considered, cannot be added for consideration and will need to be the subject of a further complaint.

## **9. COMPLAINANT CONDUCT**

- 9.1 In some circumstances the conduct of the complainant will be such that it is causing nuisance or annoyance and if at any time a member of ADC staff feels that they are being abused, threatened or harassed by a complainant this must be addressed.
- 9.2 Where the conduct of the complainant is such that it is threatening, abusive or constitutes harassment, further action may include restricting the complainant's contact with ADC in accordance with this policy and/or taking steps in accordance with ADC's Customer of Concern Protocol

## **10. RECORD KEEPING**

- 10.1 Records of all decisions relating to this policy will be kept. Such decisions for which records will be kept include but are not limited to:
- When a referral under 6.2 of this Policy is made

- When any decision is made as a result of such referral to include:
  - A decision not to apply the policy
  - A decision to make an exception to the policy once it has been applied
  - A decision to apply the policy
- When a decision is taken not to deal with a further complaint from the complainant via the complaints procedure and/or this policy
- When a decision is made to not respond to further correspondence from the complainant

## **11. SUPPORTING DOCUMENTATION**

### 11.1 Supporting policies/procedures and documentation:

- Equality & Diversity Policy
- Complaints Policy
- Customers of Concern Protocol

This policy was adopted by the Corporate Support Committee and will be reviewed after one year by the Group Head of Law & Governance.

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<sup>i</sup> This Policy can be applied to all parties engaging with Arun District Council.