

Unreasonable Behaviour Policy

Policing and Crime

Jun21

A decorative graphic consisting of two overlapping, curved bands of teal color that sweep across the bottom right corner of the page.

1. Introduction

- 1.1 We know that people have very different needs and circumstances. In serving over 2 million people we have to ensure we are fair and that we balance competing needs of those and to make sure that our resources are used proportionally and appropriately. A very small number of people can take up hugely disproportionate amounts of time and resources. We want to make sure we are aware of all legitimate complaints and casework enquiries and that we have the right information to do something about them promptly, effectively and efficiently.
- 1.2 We are committed to dealing with all complaints and casework fairly, impartially and proportionately and making the process accessible to anyone who wishes to voice their concerns. We will agree with the individual at the beginning how we can deal with their complaint or enquiry.
- 1.3 Dealing with most individuals is usually straightforward. In a minority of cases, however, some people choose to pursue their concerns in ways that can impede the progress of dealing with them, or can otherwise cause significant resource implications for the West Yorkshire (Mayoral) Combined Authority.
- 1.4 In preparing this Policy we have drawn on guidance published by the Local Government & Social Care Ombudsman¹ and also the Independent Office for Police Conduct².

2. Aim of this policy

- 2.1 To deal fairly, transparently and proportionately with *unreasonably persistent behaviour* and *unreasonable behaviour* while making sure that all relevant concerns are addressed without other service users being unfairly or unreasonably disadvantaged.
- 2.2 It will also help officers supporting the West Yorkshire Mayor and/or Deputy Mayor for Policing and Crime to understand what is expected of them, what options for action are available, and who can authorise these actions.

3. Equality and Human Rights

- 3.1 In applying this policy we will be mindful of our legal responsibilities under the Equality Act 2010, the Human Rights Act 1998 and the Convention Rights within it.

¹ <https://www.lgo.org.uk/information-centre/reports/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour>

²

https://www.policeconduct.gov.uk/sites/default/files/Documents/statutoryguidance/Guidance_on_managing_unacceptable_or_unreasonable_complainant_behaviour_2020.pdf

4. Definition

- 4.1 Unreasonable and unreasonably persistent behaviour is exhibited by individuals who, because of the frequency or nature of their contact, hinder consideration of their own, or other people's complaints or casework.
- 4.2 It should be noted that an individual can be persistent on an entirely reasonable basis. Sometimes persistence is not only justified but necessary.
- 4.3 *Unreasonable* and *unreasonably persistent* behaviour however is unacceptable. Individuals may have justifiable cause for concern but may be pursuing it in inappropriate ways, or they may be simply intent on pursuing matters which appear to have no substance or which have already been addressed and determined. The contact with the West Yorkshire (Mayoral) Combined Authority might be placing very heavy demands on staff time, or the individual may be very emotionally charged creating a distressing situation for all those involved.
- 4.4 Sometimes the situation can escalate and the behaviour of individuals moves from being unreasonable and unreasonably persistent to behaviour which is wholly unacceptable, for example, abusive, offensive or threatening conduct towards staff. Such conduct will not be tolerated.
- 4.5 For the purposes of this policy, we regard an unreasonable and unreasonably persistent individual as a member of the public who makes contact about issues that they consider to be within the Mayor's Policing and Crime remit, but whose behaviour is characterised by:
 - (a) actions that are obsessive, persistent, harassing, prolific, repetitious and/or otherwise unreasonable; and/or
 - (b) an insistence on pursuing unjustifiable complaints or other matters and/or unrealistic outcomes; beyond reason and/or
 - (c) an insistence on pursuing justifiable complaints or other matters in an unreasonable manner or being uncooperative with those trying to resolve them.

5. Examples of unreasonable and unreasonably persistent behaviour

- 5.1 Some examples of unreasonable and unreasonably persistent behaviour are provided below. This is not an exhaustive list but provides some examples that have frequently come to the attention of the Local Government Ombudsman or Independent Office for Police Conduct:
 - Refusing to specify the grounds of a complaint, despite offers of assistance.
 - Refusing to cooperate with the West Yorkshire (Mayoral) Combined Authority's processes for handling complaints or casework while still wishing their issue to be resolved.

- Adopting false identities or forging documents.
- Refusing to accept that issues are not within the remit of the Mayor or Deputy Mayor for Policing and Crime, despite having been provided with information about their powers and responsibilities.
- Insisting on a complaint being dealt with in ways which are incompatible with the complaints policy, relevant legislation or statutory guidance.
- Making what appear to be groundless complaints about the staff dealing with the issue(s), and seeking to have them replaced.
- Changing the basis of a complaint as the matter proceeds and/or denying statements made at an earlier stage.
- Introducing trivial or irrelevant new information which the individual expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Making inflammatory statements and unsubstantiated allegations.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach: pursuing an issue with West Yorkshire (Mayoral) Combined Authority and at the same time with others such as with the Chief Constable, a Member of Parliament, local councillors, the IOPC etc.
- Making unreasonably excessive demands on the time and resources of staff while an issue is being looked into, for example by excessive telephoning or sending emails to numerous people, writing lengthy complex letters every few days and demanding immediate responses.
- Submitting repeat complaints or casework, after proper processes have been completed, essentially about the same issues, with additions and/or variations which the individual insists make these 'new' matters which should be thoroughly considered.
- Using unacceptable behaviour towards the Mayor, the Deputy Mayor for Policing and Crime and West Yorkshire (Mayoral) Combined Authority staff, for example:
 - swearing, threatening and abusive words or behaviour
 - racial, religious or sexual abuse
 - making personal comments about the individual
 - shouting or intimidating the person
 - making threats against staff or others.

6. Considerations before taking action under this policy

- 6.1 The decision to treat someone as unreasonable or unreasonably persistent is an important one and could have significant consequences for the individual.
- 6.2 Different considerations will apply depending on whether the issue they are pursuing is ongoing or whether it has been concluded. To some extent the latter is easier to deal with. Where a legitimate issue is ongoing there needs to be some continuing contact with the individual.
- 6.3 Before deciding whether the policy should be applied we will satisfy ourselves that:
 - the complaint or casework is legitimate and is being, or has been, handled in a reasonable and proportionate manner;
 - any decision reached is an appropriate one and has been communicated clearly to the individual;
 - communications with the individual have been adequate, timely and appropriate and that they have received additional support where it is needed;
 - the individual is not providing any significant new information which might affect the views of the staff handling the matter.
- 6.4 Before we apply any restrictions the individual will ordinarily be given a warning that if their actions continue a decision may be made to treat their behaviour as unreasonable or unreasonably persistent and an explanation of why.

7. Operating this Policy

- 7.1 Where we form the view that we are dealing with an unreasonable or unreasonably persistent individual, the case will be referred to the Head of the Policing and Crime Team to consider whether this policy should be applied.
- 7.2 The individual should also be provided with a copy of this Policy.
- 7.3 Staff members have the right to terminate telephone calls where they consider that the caller is being aggressive, abusive or offensive, after telling the caller that their behaviour is unacceptable and/or is placing unreasonable demands on the organisation. In this event a note will be made of the action taken.
- 7.4 Staff members who directly experience aggressive, offensive, abusive or unreasonable behaviour from an individual have the right to deal immediately with this behaviour either by removing themselves from the situation or asking the individual to leave the premises.

8. Options for action

- 8.1 There are different options for action which the West Yorkshire (Mayoral) Combined Authority can apply to ensure that each case will have a proportionate and appropriate response to address the particular issues that the individual brings. The options for management of the individual include:

- Placing time limits on telephone conversations and personal contact.
- Restricting the manner and form of communications with the individual.
- Restricting the number of telephone calls that will be taken from the individual.
- Limiting the individual to one appropriate method of contact (telephone, letter or email) and/or requiring the individual to communicate only with one named member of staff.
- Requiring any personal contact to take place in the presence of a witness.
- Requiring the individual to use an advocate for any further contact.
- Refusing to register, process or discuss further contact about the same matter.

8.2 If a decision is taken to apply this Policy the individual will be told:

- when the decision was taken
- what it means for their contact with the office
- when the decision will be reviewed / how long the restriction(s) will last.
- that the decision does not prohibit them from exercising any of the statutory rights such as their right to make a Freedom of Information or Data Subjects Rights Request unless such contact can be characterised as a repeated, vexatious or unreasonable use of the legislation.

8.3 Where we decide on the relevant conditions that we will apply to an individual we will inform them of those conditions and their effect. Where appropriate, we will advise the individual that future correspondence on the matter will be read and placed on file but will not necessarily be acknowledged. A named officer will be identified to read future correspondence from the individual.

8.4 Records of all contact with unreasonable and unreasonably persistent individuals should include when a decision is requested, taken or an exception to the Policy has been applied. Further correspondence from the individual should be checked to pick up any significant new information.

8.5 The West Yorkshire Combined Authority reserves the right to pass details of any unreasonable contact to our legal representatives which may result in legal action.

8.6 Where material, comments or actions are grossly offensive or threatening and may be construed as an offence under the Public Order Act 1986, the Protection from Harassment Act 1997 or the Malicious Communications Act 1988, the West Yorkshire Combined Authority may involve the police or institute proceedings.

9. Reviewing the Restrictions

9.1 No later than twelve months from the start of the restrictions, a check will be made to see whether they are still appropriate. Individuals will be informed of the outcome of the review.

9.2 If the restrictions are no longer required they will be lifted. However, immediate consideration will be given to re-introducing them if the individual's behaviour which led to the original decision resumes.

- 9.3 Appeals against application of this Policy or the particular restrictions applied may be made by writing to the Chair of the Joint Independent Audit and Ethics Committee at the following address:

West Yorkshire (Mayoral) Combined Authority
Ploughland House
62 George Street
Wakefield
WF1 1DL

Appeals will only be considered if they are submitted in writing and appeal rights are limited to one occasion.

10. Data Protection

- 10.1 We will retain records of the contact made by individuals in order to deal with the issues raised and to review the application of this Policy. These will be retained for six years after the last contact from the individual before being destroyed or deleted.
- 10.2 Individuals have the right to be told what information is held about them and to be given a copy of that information. This is the right to make a **subject access request**.
- 10.3 If we need consent to process an individual's information, they have the right to withdraw that consent.
- 10.4 Individuals have the right to have information rectified and, in certain circumstances, the right to object to processing, to restrict processing and to have data erased.
- 10.5 To exercise any of these rights contact the Data Protection Officer at the West Yorkshire (Mayoral) Combined Authority - Policing and Crime: dpo@westyorkshire-pcc.gov.uk.
- 10.6 Individuals have the right to make a complaint to the Information Commissioner. Contact the Information Commissioner's Office (ICO) at: www.ico.org.uk or by phone at 0303 123 1113

Find out more

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