

Unreasonably persistent complainants and unreasonable complainant behaviour

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RESIDENTS ARE THE REASON WE ARE HERE

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1. Introduction

- 1.1 As a resident-managed organisation, Leathermarket JMB recognises the importance of the involvement of our residents in shaping how we deliver our services. We also recognise that complaints about our services are a valuable way that people get involved in how we operate, providing us feedback about how we need to improve our operation.
- 1.2 However some people, who may have justified complaints or grievances, may be pursuing them in inappropriate ways.
- 1.3 Some people may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. Staff are trained to respond with patience and understanding to the needs of all complainants and their families, but there are times when there is nothing further that can reasonably be done to help them or to put right a real or perceived problem.
- 1.4 In some cases the complainants' contacts with the JMB may be amicable but still place very heavy demands on staff time. Alternatively, their contacts may be very emotionally charged and distressing for all involved.
- 1.5 Sometimes the situation between the JMB and a complainant can escalate and the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening
- 1.6 When considering how to manage these types of complainant, JMB staff will need to consider the following:
 - that the complaints procedure has been correctly implemented and that no material element of a complaint has been overlooked or inadequately addressed. In doing so it should be appreciated that complaints that people may be pursuing with unreasonable persistence may have issues, which contain substance.
 - to identify the stage at which a complainant has become unreasonably persistent or is behaving unreasonably.

2. Purpose of this Procedure

- 2.1 Complaints about the JMB or about services provided by contractors working for the JMB are processed in accordance with JMB's complaints procedure. During this process, staff inevitably have contact with a small number of complainants who take up an unwarranted amount of council resources. The aim of this procedure is to identify situations where the complainant could be considered unreasonably persistent and to suggest ways of responding to these situations.
- 2.2 The procedure will only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the JMB complaints procedure. Advocacy groups can be involved at the complainant's request.

3. Criteria for Recognition of an unreasonably persistent Complainant

3.1 A complainant (and/or anyone acting on their behalf) may be considered to be habitual or vexatious where current or previous contact with them shows that they meet any of the following criteria:

- persists in pursuing a complaint where the JMB's complaints procedure has been fully implemented and exhausted. For example, where investigation is deemed to be "out of time" or where a request for independent review has been refused.
- changes the substance of a complaint, persistently raising new issues, unreasonably raising further concerns or questions on receipt of a response while the complaint is being dealt with. N.B. Care is taken not to disregard new issues which differ from the original complaint – these may need to be addressed as separate complaints.
- is unwilling to accept documented evidence of services provided as being factual (e.g. rent statements or repair documentation). This may also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- insists they have not had an adequate response in spite of a large volume of correspondence specifically answering their questions/concerns.
- is unable to identify the precise issues they wish to be investigated, despite efforts to help them do so by JMB staff and, where appropriate, advocacy groups.
- is unwilling or unable to accept that the concerns identified are not within the remit of the JMB to investigate.
- focuses on a trivial matter to an extent, which is out of proportion to its significance and continues to focus on this point. We recognise that determining what is trivia is subjective.
- uses or threatens physical violence towards staff or their families/colleagues. This will in itself cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will only be pursued through written communication. All incidents are documented and reported, when appropriate, to the police.
- has an excessive number of contacts with the JMB placing unreasonable demands on staff. Such contacts may be in person, by telephone, letter, fax or electronically. The specific circumstances of each individual case are used in deciding how many contacts are excessive.
- harasses or is personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint, or their families and/or colleagues. It is recognised that complainants may sometimes act out of character at times of stress, anxiety or distress and allowances must be made for this. All incidents of harassment or aggression are documented and dated.
- electronically records meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the start of the investigation into their complaint that such behaviour is unacceptable and can, in some circumstances, be illegal.

- displays unreasonable demands or expectations and fails to accept that these may be unreasonable once a clear explanation has been given (e.g. insisting on the response to a complaint or enquiry being provided more urgently than is reasonable or recognised practice).
- is a relative/carer/friend complaining on behalf of someone, who may not have a complaint themselves
- attention seeking behaviour, involving MP, Secretary of State, Prime Minister etc.

4. Options for Dealing with Unreasonably persistent Complainants

- 4.1 When a complainant has been identified as meeting one or more of the criteria, a letter will be sent from the JMB Manager detailing the action to be taken.
- 4.2 This letter will be copied to others already involved in the complaint such as practitioners, conciliator, CAB, Member of Parliament, advocates etc.
- 4.3 Action to be taken may include:
- drawing up a signed agreement with the complainant (if appropriate, involving the relevant service head) setting out a code of behaviour for the parties involved if the JMB is to continue dealing with the complaint.
 - declining further contact with the complainant either in person, by telephone, fax, letter or electronically – or any combination of these – provided that one form of contact is maintained. A suggested statement may be used by staff to help them end telephone conversations.
 - restricting contact to liaison through a third party
 - writing to the complainant that the JMB Manager has responded fully to the points raised, that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant is notified that the correspondence is at an end and that further communication will be acknowledged but not answered.
 - informing the complainant that the Council reserves the right to refer unreasonable or vexatious complainants to the JMB's Solicitors and/or the police.
 - temporarily suspending all contact with the complainant, or investigation of a complaint, whilst seeking legal advice or guidance.

5. Reviewing 'Unreasonably Persistent' Status

- 5.1 The situation will be reviewed at each contact to consider whether
- a) a more reasonable approach is being used, and
 - b) a different complaint is being reported, for which the usual complaints procedure needs to be implemented.