Unreasonable Conduct Policy

Ashford Borough Council

March 2025

Contents:

1. Policy Statement.....Page 1
2. Scope of the Policy.....Page 1
3. Relationship with Other Existing Policies.....Page 1
4. Responsibilities.....Page 2
5. Definitions and Examples.....Page 2
6. Prevention First Approach.....Page 4
7. Handling Unreasonable Conduct.....Page 4
8. Accessibility and Awareness.....Page 9
9. Record Keeping and Monitoring.....Page 9
10. Scrutiny and Oversight.....Page 10
11. Confidentiality and Data Protection.....Page 10
12. Policy Review.....Page 10

1. Policy Statement

1.1. This policy establishes a standard and comprehensive approach to managing unreasonable conduct, ensuring consistency, and fostering trust in the council's services. The policy is designed to mitigate risks by preventing issues before they escalate, providing clear procedures, and promoting a culture of learning and accountability. By understanding the causes of unreasonable conduct, the council aims to proactively prevent issues. The policy sets out clear expectations for both the council and service users, ensuring transparency in performance and approach.

1.2. This policy follows the guidance provided by the **Local Government and Social Care Ombudsman (LGSCO)**, and complements the council's Complaints Handling Policy and other departmental policies.

2. Scope of the Policy

2.1. This policy applies to the conduct of any individual, party or representative directed at council services, staff, councillors, contractors, and agents acting on Ashford Borough Council's behalf.

2.2. This policy applies to unreasonable behaviour that is conducted in all formats. This could be directly face-to-face, online via social media, or even through existing services the council has in place, such as the complaints process.

3. Relationship with Other Existing Policies

3.1. This Policy is part of a wider framework of council policies designed to ensure consistent, effective, and high-quality service delivery across all areas. The following policies and procedures are closely linked to this Policy and should be referred to where relevant:

a. Complaints Handling Policy
b. Housing Service Complaints Policy
c. Reasonable Adjustments Policy

4. Responsibilities

4.1. This section outlines the roles and responsibilities of all parties involved, fostering accountability and consistency throughout the council.

a. **Council staff:** ensure any dissatisfaction is recognised early and that escalation is prevented by providing clear guidance and support.
b. **Assistant Directors/Heads of Service:** establish mechanisms within their departments to monitor performance.
c. **Council members:** scrutinise and monitor the council's handling of unreasonable conduct.
d. **Service users:** to treat council staff and services with respect and dignity and not conduct themselves in an unreasonable way.

5. Definitions and Examples

5.1. The definitions below provide clarity on key terms used throughout this policy to ensure a shared understanding of the terminology used in the policy.

a. **Unreasonable conduct:** behaviour that is deemed excessive, disruptive, defamatory or intended to harass, intimidate, annoy, or burden others without legitimate purpose. It involves actions that are unreasonable, disproportionate, or malicious, such as abusive tone or language, raising baseless complaints or repeatedly pursuing frivolous claims.
b. **Service user:** an individual or party that utilises any of the council services, such as customer services or the complaints process, either in-person or online.

5.2. Outlined below are examples of what could be considered unreasonable conduct and may cause the Unreasonable Conduct Policy to be triggered. However, this list is not exhaustive, and the council will examine each incident individually to establish whether it believes a service user is behaving unreasonably.

a. **Aggression or abuse:** being aggressive, harassing, defamatory, or using offensive, intimidating or violent language or behaviour in communications or interactions. Particularly in relation to any of the 9 protected characteristics: age, disability, gender reassignment, race,

religion or belief, sex, sexual orientation, marriage and civil partnership, and pregnancy and maternity.

b. **Persistence:** repeatedly raising the same issue or request, despite a comprehensive response from the council, without presenting any new or significant information.
c. **Excessive contact:** a volume and frequency of contact that hinders the council's ability to conduct work effectively, such as excessively long telephone calls, multiple emails in a short period, or repeatedly visiting the office without and appointment.
d. **Demands and expectations:** making unreasonable demands or insisting on outcomes that are disproportionate or beyond the scope of what is appropriate or possible.
e. **Lack of cooperation:** making a request but then refusing to elaborate or provide necessary further information when the council requests it but continuing to pursue the initial request. Refusing to specify the grounds of an issue or accept the council's timescales or processes.
f. **Frivolous arguments:** being deliberately argumentative or continuously referring to unrelated issues in the pursuit of the initial request.
g. **Scattergun approach:** persistently pursuing parallel enquiries on the same issue with a variety of departments/officers and/or external organisations.
h. **Non-consensual recording:** covertly recording meetings and conversations. Live broadcasting interactions or putting recordings online without consent
i. **False information:** submitting falsified documents and/or denying or changing statements. Making unjustified and untruthful complaints about members of staff who are trying to deal with the issues.

5.3. The council is committed to maintaining a working environment for all staff, councillors, temporary workers and contractors where harassment and threatening or abusive behaviour is not tolerated; therefore, the types of behaviour listed at section **5.2** above would be deemed trigger actions or behaviours which may cause the Unreasonable Conduct Policy to be invoked.

5.4. In the event that the council considers any behaviours or actions constitute illegal or criminal conduct, such as physical violence, threats of harm or harassment towards staff, councillors or contractors, the council will take appropriate action. This is likely to include reporting the matter to the police or other law enforcement agency, seeking direct legal remedies, and/or implementing necessary security measures to protect staff and the organisation.

6. Prevention First approach

6.1. The council believes unreasonable conduct can be prevented by ensuring service users can access the services and information they need easily. The council will ensure that information about services can be accessed in a range of different ways and that there are a range of channels for service users to use.

6.2. The initial interaction with a service user is one of the most important contacts. The way this interaction goes can significantly affect how the service user interacts subsequently. A service user, who feels that they have been listened to, understood, treated fairly and with respect and who has been given a thorough explanation is more likely to respond positively than if they were not given this information.

6.3. Unreasonable conduct can also be an indication of an unmet communication or support need. Not all disabilities are visible and therefore the council will provide the opportunity for any service user to state whether they need to make any changes to how a service is delivered. This allows service users an opportunity to state if they need any reasonable adjustments under the Equality Act 2010.

7. Handling Unreasonable Conduct

7.1. Whilst the council aims for interactions with service users to be positive and constructive, there may be instances where service users may behave in ways the council deems unreasonable. To address such situations, the council has established processes for managing unacceptable conduct.

7.2. Council staff members are empowered to warn service users of the consequences of their conduct in the first instance. This may help the service user to reflect on their actions and provide an opportunity for them to modify it. Staff members are also able to take immediate action in response to unreasonable conduct such as terminating phone calls, asking someone to leave the premises or pausing communications. Any immediate steps will be followed by either an informal warning about future conduct or consideration of further action under the council's Unreasonable Conduct Policy.

7.3. The council considers restricting a service user's contact to be a measure of last resort, undertaken only after all reasonable efforts at reconciliation and appropriate warnings have been exhausted. If any restrictions are imposed, the

reasons will be documented and communicated with the service user, and the restrictions will be reviewed regularly to ensure fairness and appropriateness.

7.4. Any restrictions on a service users contact with the council due to unreasonable conduct will be proportionate and will consider the requirements of the Equality Act 2010.

Applying the Policy

7.5. Requests to apply formal warnings or further actions to a service user must first be raised with a line manager. With the agreement of the manager, requests to apply this policy must be submitted to the Assistant Director or Head of Service. The request must demonstrate impact on the service, the conduct that meet the criteria set out in section **5** and the proposed way forward.

7.6. A decision will be taken by the Assistant Director or Head of Service, or in their absence, a Director, in consultation with the legal team on whether to take action under this policy.

7.7. In any circumstance where the Assistant Director or Head of Service was involved in the original incident of unreasonable conduct the request to apply this policy must be submitted to an alternative Assistant Director or Head of Service.

7.8. The decision to designate a service user as unreasonable is onerous and could have serious consequences for the service user. Before deciding whether this policy should be applied, the decision maker should be satisfied that:

a. The issue has been investigated properly.
b. Communications with the service user have been adequate.
c. The service user is not providing any significant new information that might affect the council's view on their issue.
d. There is a clear evidence base to support the decision to apply the Unreasonable Conduct Policy in line with the conduct outlined in section **5.2**.

Handling Process

7.9. When dealing with unreasonable conduct, the council will adhere to the following process, which has been informed by Local Government and Social

Care Ombudsman guidance.

7.10. **Assessment:** A thorough review of the service user's behaviour will be conducted. The council will ensure that the service user's initial issue has been properly addressed, unless the nature of the issue is deemed unreasonable.

7.11. **Informal warning:** The council empowers its staff to issue informal warnings to service users whose conduct is deemed unreasonable. These warnings provide an opportunity for service users to adjust their actions before the matter is escalated for further review or action.

7.12. **Formal warning:** If a service user does not adhere to the informal warning issued by staff, the council will review the situation and determine whether a formal warning is warranted. This decision will be based on evidence and will assess whether alternative actions might better address the root cause of the service user's conduct. If a formal warning is deemed necessary, it should be issued in writing, where appropriate, and include the following:

a. A clear explanation of the actions the council considers unreasonable.
b. Specific examples of actions that are deemed unreasonable.
c. The time period within which the service user's future actions will be monitored, along with details of when, how, and by whom any restrictions on contact or further actions will be reviewed.
d. The consequences of failing to address the identified behaviour.
e. A confirmation of whether the service user requires any reasonable adjustments under the Equality Act 2010.

7.13. **Restriction:** The council considers restricting a service user's contact to be a measure of last resort, undertaken only after all reasonable efforts at reconciliation and appropriate warnings have been exhausted. However, the council recognises that in serious situations, it may be necessary to restrict a service user's contact without prior warnings. This decision will be made by an Assistant Director, Head of Service or Director in consultation with the legal team. Restrictions will be tailored and proportionate to address the conduct found in each case and may include:

a. Restricting contact to an individual named officer or generic inbox.
b. Placing correspondence on file without acknowledgement or reply (contents of correspondence will still be reviewed to ensure it does not contain significant new information or raise any safeguarding concerns).

c. Restricting access to certain buildings or premises controlled by the organisations.
d. Restricting contact to written contact only (having regard to any agreed reasonable adjustments).
e. Restricting the length and frequency of telephone calls.
f. Restricting access to discretionary services.
g. Deeming a complaint as unreasonable and deciding to take no further action on it.

7.14. Any decision to restrict contact or service provision will be communicated in writing, where appropriate, with consideration given to any agreed reasonable adjustments. The communication will clearly outline:

a. A clear explanation of the actions the council considers unreasonable.
b. Specific examples of actions that are deemed unreasonable.
c. The time period within which the individual's future actions will be monitored, along with details of when, how, and by whom any restrictions on contact or further actions will be reviewed.
d. The consequences of failing to address the identified behaviour.
e. Confirmation that the council has considered the individual's rights under human rights and equality legislation.
f. Details on how to appeal the decision to apply restrictions and information about the relevant Ombudsman.

7.15. **Review:** The council will review any decision to restrict a service user's contact at the end of the monitoring period specified at the time the restriction was put in place. The duration of this period will depend on the service user's actions and any previous decisions regarding contact restrictions. However, all restrictions will be reviewed at least once every 12 months. Following the review, the council will write to the service user to inform them of the outcome. If the restrictions are to remain in place, the council will clearly explain the reasons for this decision. Should the restrictions be lifted, the council may issue a reminder to the service user regarding expectations for their future conduct. These reviews will not be undertaken by a member of staff that was involved in the original incident.

7.16. **Further action:** In a small number of cases, decisions to restrict contact may have no effect on a service user's actions. In most instances, however, such restrictions assist council staff in managing the impact on services effectively. In the most serious cases, additional action may be required, particularly if a service user's conduct is significantly affecting staff welfare. If the council is

considering implementing legal restrictions on a service user as outlined in section **5.4**, it will seek appropriate advice to ensure that any such actions are proportionate, lawful, and justified. The council can withdraw mandatory services towards service users on grounds of unreasonable conduct in certain limited circumstances. Withdrawal, of a mandatory service is a serious step and the council will take into account wider human rights and equality duties when making such a decision.

7.17. **Impact on others:** In certain circumstances, restricting a service user's contact with the council may inadvertently affect others. For example, if a family member of a resident in a sheltered housing scheme is restricted from entering the premises, this could negatively impact the resident and potentially engage their human rights. The council will carefully consider the potential impact of such restrictions on others when determining the most appropriate course of action and will take steps to mitigate any adverse effects. Measures to address this could include:

a. Requiring the service user subject to restrictions to be accompanied by another person, such as a family member or social worker, during visits.
b. Arranging alternative visiting options, such as meeting outdoors or at a different location, provided this is appropriate for the person being visited.
c. Facilitating video calls if there is a risk to staff or others in permitting the individual to be physically present at the location.

Appeal and Escalation

7.18. Service users can appeal against restrictions attached to a decision by submitting a request in writing within one calendar month of its communication to the service user. This appeal will be considered by a Director, that was not involved in the original process, in consultation with the legal team and a decision on this appeal will be made in writing within one calendar month of receiving the request.

7.19. If the service user is dissatisfied or believes the action taken against them is unreasonable or unjust, they have the option to escalate to the Local Government and Social Care Ombudsman. The Ombudsman provides a fair, independent, and free service. Contact details for the relevant Ombudsman are provided below, and they can be contacted at any time for advice or guidance.

7.20. **Local Government and Social Care Ombudsman**
Website: https://www.lgo.org.uk/
Telephone: 0300 061 0614
Postal Address:
Local Government & Social Care Ombudsman, PO Box 4771, Coventry, CV4 0EH

8. Accessibility and Awareness

8.1. The council will make reasonable adjustments for individuals where appropriate under the Equality Act 2010. A record of any agreed adjustments will be maintained, and these adjustments will be regularly reviewed to ensure they remain effective.

8.2. This Policy will be available as a downloadable document on our website alongside information on accessing the Ombudsman service. Available here: Unreasonable Conduct.

8.3. The Policy can be requested as a document from any member of staff. Additionally, the council can provide this policy in both a regular and large printed format upon request.

9. Record Keeping and Monitoring

9.1. The council keeps a full record of any incidents of unreasonable conduct, and the outcomes at each stage of the process. This will include information on the original incident, all correspondence between the council, the individual, and other parties, and any relevant supporting documents. This record will be retained in line with the council's data retention policy.

9.2. Where a service user's conduct is considered unreasonable, it may be appropriate for a council manager to speak with other teams, departments and external bodies (e.g. mental health services) involved to share information for the purposes of safeguarding welfare and exploring other ways in which support can be provided through inter or cross-organisational working.

10. **Scrutiny and Oversight**

10.1. We will report our annual handling of unreasonable conduct to the council's Cabinet which will serve as the governing body for the Unreasonable Conduct Policy. This does not exclude handling being reported to other officer and members' meetings within the council. This would form part of the complaints performance report.

11. **Confidentiality and Data Protection**

11.1. Any information provided will be used solely for the purpose of investigating the unreasonable conduct. All personal data will be securely stored and managed in compliance with relevant legislation. To effectively investigate an incident, certain customer details (such as name, contact information, and the nature of the conduct) may be shared with other council services to facilitate a response.

11.2. All incidents will be handled in accordance with the Data Protection Act 2018 and the Freedom of Information Act 2000. The identity of the service user will only be disclosed to those who need it to address the incident. While the council strives to be open and transparent in its responses, there may be instances where confidentiality must be maintained, and information about third parties will generally not be shared.

12. **Policy Review**

12.1. This policy will be reviewed periodically to ensure compliance with current legislation, Ombudsman guidelines, and best practices.

12.2.

Owner	Policy and Performance
Last Review Date	06 March 2025 (v1.2)