

2.2.10 Habitual or Vexatious Complaints Policy

Type:	Corporate Services – Risk Management
Legislation:	<i>Local Government Act 1995</i>
Delegation:	N/A
Other Related Document:	

Purpose

Habitual or vexatious complaints can be a problem for Council staff and members. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of Officer and Member time and displace scarce human resources that could otherwise be spent on Council priorities. Whilst the Council endeavours to respond with patience and sympathy to all needs of all complainants, there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

Objective

1. To identify situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be “habitual or vexatious” and ways of responding to these situations.
2. This policy is intended to assist in identifying and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of conduct.

Policy Scope

1. For the purpose of this policy, the following definition of habitual or vexatious complainants will be used:

The repeated and/or obsessive pursuit of:

- (i) unreasonable complaints and/or unrealistic outcomes; and/or
 - (ii) reasonable complaints in an unreasonable manner.
2. Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in the attached document (Schedule A), the CEO, following discussions with the Executive Management Group, will seek agreement to treat the complainant as a habitual or vexatious complainant and for an appropriate course of action to be taken. The attached schedule (B) details the options available for dealing with habitual or vexatious complaints.
 3. The CEO will notify complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious, and the action that will be taken. The CEO will also notify the Elected Members that a constituent has been designated as a habitual or vexatious complainant.
 4. Once a complainant has been determined to be habitual or vexatious, their status will be kept under review after one year and monitored by the CEO with reports being taken to Council as required. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.

Schedule A – Criteria for Determining Habitual or Vexatious Complaints

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows how they meet one of the following criteria:

Where complainants:

1. persist in pursuing a complaint where the Council's complaints process has been fully and properly implemented and exhausted.
2. persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. (Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints).
3. are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed.
4. repeatedly do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate.
5. regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what is a trivial matter can be subjective and careful judgment will be used in applying this criteria.
6. have threatened or used physical violence towards employees at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. The Council has determined that any complainant who threatens or uses actual physical violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made.
7. have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax. Judgment will be used to determine excessive contact taking into account the specific circumstances of each individual case.
8. have harassed or been verbally abusive on more than one occasion towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. Some complainants may have a mental health disability and there is a need to be sensitive in circumstances of that kind.
9. are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
10. make unreasonable demands on the Council and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practice.
11. make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:
 - clearly does not have any serious purpose or value; or

- is designed to cause disruption or annoyance; or
 - has the effect of harassing the public authority; or
 - can otherwise fairly be characterised as obsessive or manifestly unreasonable.
12. make repetitive complaints and allegations which ignore the replies which Council Officers have supplied in previous correspondence.

Schedule B – Options for Dealing with Habitual or Vexatious Complainants

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint process is ongoing or completed.

1. A letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
2. Decline contact with the complainant, either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this in person.
3. Notify the complainant, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.
4. Inform the complainant that in extreme circumstances the Council will seek legal advice on habitual or vexatious complaints.
5. Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual or vexatious, while seeking legal advice or guidance from its solicitor or other relevant agencies.

Definitions

“habitual” means “done repeatedly or as a habit”. The term vexatious is recognised in law and means “denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant”.

Responsible Directorate:	Corporate Services
Reviewing Officer:	Executive Manager Corporate Services
Decision making Authority:	Council
Policy Adopted:	15/08/23
Policy Amended:	
Next Review Date:	

VEXATIOUS COMPLAINTS MATRIX

Date of Initial Complaint	Number of Complaints	Synergy Record Number
<p>Are the complaints of the same nature?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		
<p>Has the complaint be ongoing for more than three months?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		
<p>Is the complainant demonstrating an unreasonable manner or requesting unrealistic outcomes?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		
<p>Is the complaint a matter of Community Safety?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		
<p>Has the Town received complaints of a similar nature from other residents?</p> <p><input type="checkbox"/> Yes</p> <p><input type="checkbox"/> No</p>		
<p>What actions has the Town taken in relation to the complaint?</p> 		
<p>Number of interactions phone/in person/outwards correspondence generated by the Town</p> 		
<p>Is the complainant unwilling to accept documented evidence given as being factual?</p>		

- Yes
- No

Does the Town deem the complaints to be of an unreasonable nature which is imposing a significant burden on resources within the Town?

- Yes
- No

Does the Town require legal advice in relation to habitual or vexatious complaints?

- Yes
- No

Is the matter an area or issue of the Town's jurisdiction?

- Yes
- No

Is the complainant personally affected by the action or decision?

- Yes
- No

Has the Town acted in accordance with the relevant head of power including local laws, policies and State Government legislation?

- Yes
- No

Has the Town acted reasonably and justly?

- Yes
- No

Has the Town provided reasons for a decision?

- Yes
- No