

VEXATIOUS COMPLAINTS POLICY

Introduction

Habitual or vexatious complaints can place a strain on time and resources and may cause undue stress for staff who may need support in difficult situations. Staff should respond in a professional and helpful manner to the needs of all complainants but there are times when there is nothing further that can reasonably be done to assist them or to rectify a real or perceived problem. With the continual financial pressures on the Council the organisation needs to be more adept at drawing a line under such situations that can place a disproportionate drain on staff resources over a protracted period of time. In determining arrangements for handling such complaints staff are presented with two key considerations. The first is to appreciate that even vexatious complainants may have issues that contain some genuine substance, and therefore an equitable approach is crucial. The second is to be able to identify the stage at which a complainant has become vexatious. One approach is to develop an approved policy, which would only be implemented in exceptional circumstances.

Purpose of this Guidance

It is perfectly reasonable for complainants to request information or assistance from the Council on pursuing complaints about services provided to them. The aim of this policy is to identify situations where complainants might be considered to be habitual or repetitive and to suggest ways of responding to these situations.

It is emphasised that this policy should only be used as a last resort and after all reasonable measures have been taken to assist complainants. Judgement and discretion must be used in applying the criteria to identify potential vexatious complainants and in deciding action to be taken in specific cases.

The policy should only be implemented following careful consideration by, and with the authorisation of, the Operational Director, Policy and Performance, Resources Directorate (or nominated deputy).

Definition of a Vexatious Complainant

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

1. Persist in pursuing a complaint where the Council's Corporate Complaints Procedure has been fully and properly implemented, or has been exhausted.
2. Refuse to refer the complaint to the Local Government Ombudsman and insist that the Council resolves their complaint in accordance with their wishes.
3. Change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions upon receipt of a response whilst the complaint is being addressed. (However care must be taken not to discard new issues that are significantly different from the original complaint. These might have to be addressed separately).
4. Are unwilling to accept documented evidence as being factual, or deny receipt of an adequate response in spite of correspondence specifically answering their questions.
5. Do not clearly identify the precise issues they wish to be investigated, despite reasonable efforts by the Council to help them specify their concerns.

6. Focus on a trivial matter to an extent that is out of proportion to its significance and continue to focus on this point.
7. Have, in the course of pursuing their issue, had an excessive number of contacts with the Council (by telephone, e-mail, letter, fax or in person) placing unreasonable demands on staff. Staff should be instructed to keep a clear record detailing the number, type and nature of contacts from a complainant.
8. Display unreasonable demands or expectations and fail to accept these may be unreasonable e.g. insist on immediate responses from staff when they are not available and this has been explained.
9. Have threatened or used actual physical violence. All such cases must be documented in case of further action and reported.
10. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with them. All cases must be documented and reported in case of further action. Staff must, however, recognise that complainants may sometimes act out of character at times of stress, anxiety, or distress and should make reasonable allowances for this.

Options for dealing with vexatious complainants

Where complainants have been identified as vexatious in accordance with the above criteria, the Complaints Lead Officer will inform the Operational Director, Policy and Performance, Resources Directorate (or nominated deputy) and recommend the action to be taken. The Operational Director (or nominated deputy) will decide whether or not to implement such action and, if agreed, will notify the complainant in writing of the reason why they have been classified as a vexatious complainant and the action to be taken.

The suggested course of action would be to inform the complainant that the Council has responded fully to their complaint and has tried to resolve it but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant should also be notified that the correspondence is at an end and that further letters received will be acknowledged but not answered.

Withdrawing the Vexatious Complainant Policy

Once complainants have been determined as 'vexatious' there needs to be a mechanism for withdrawing this status at a later date if, for example, complainants subsequently demonstrate a more reasonable approach, or if they submit a further complaint for which normal complaints procedures would appear appropriate.

Staff should previously have used discretion in recommending 'vexatious' status at the outset and discretion should similarly be used in recommending that the status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the Operational Director, Policy and Performance, Resources Directorate (or nominated deputy). Subject to their approval, normal contact with the complainants and application of the Corporate complaints procedure will then be resumed.