

HABITUAL OR VEXATIOUS COMPLAINANTS

Purpose

Habitual or vexatious complainants are problematic for both the Shire of Plantagenet (the Shire) Council and employees. The matters raised by habitual and vexatious complainants – both in terms of the nature of the complaint(s) and the volume of complaints received – are time consuming, diverting valuable Shire resources away from Council priorities.

Council endeavours to respond with empathy to the needs of all complainants, however, there are times when there is nothing further which can reasonably be done to assist or rectify a real or perceived problem.

Within this context, this policy seeks to:

- identify situations where a complainant, either individually or as part of a group, or a group of complainants, might be habitual or vexatious and ways of responding to these situations; and
- assist in identifying and managing such persons or groups.

Scope

This policy provides members of Shire Council and employees of the Shire with guiding principles for identifying and managing habitual or vexatious complainants.

Definitions

“Vexatious” in a legal context 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”.

For the purpose of this policy, **“habitual or vexatious complainants”** are persons or groups in repeated and/or obsessive pursuit of:

- unreasonable complaints and/or unrealistic outcomes; and/or
- reasonable complaints in an unreasonable manner.

Where complaints continue and have been identified as habitual or vexatious as per the criteria set out in this policy, the CEO will seek agreement to treat the complainant as a habitual or vexatious complainant and for an appropriate course of action to be taken, as per the process set out in the policy guidelines.

The CEO will notify complainant, in writing, of the reasons why their complaint has been treated as habitual or vexatious, and the action will be taken. The CEO will also notify the elected members that a constituent has been designated as a habitual or vexatious complainant.

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, their status will be reviewed.

Policy

1. Criteria for determining habitual or vexatious complainants

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

- a) Persist in pursuing a complaint where the Council's complaints process has been fully and properly implemented and exhausted.
- b) 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).
- c) 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.
- d) 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.
- e) 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 judgement will be used in applying this criteria.
- f) 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 violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with a notification of how future contact with the Council is to be made.
- g) 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.

Judgement will be used to determine excessive contact taking into account the specific circumstances of each individual case.

- h) Have harassed or been verbally abusive on more than one occasion towards employees dealing with their 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.
- i) Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of other parties involved.
- j) 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 enquires being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practice.
- k) Make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:
 - i. Clearly does not have any serious purpose or value; or
 - ii. Is designed to cause disruption or annoyance; or
 - iii. Has the effect of harassing the public authority; or
 - iv. Can otherwise fairly be characterised as obsessive or manifestly unreasonable.
- l) Make repetitive complaints and allegations which ignore the replies which Council officers have supplied in previous correspondence.

2. Process for addressing habitual or vexatious complainants

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

- a) 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.
- b) 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.
- c) 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.

- d) Inform the complainant that in extreme circumstances the Council will seek legal advice on habitual or vexatious complainants.
- e) 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 our solicitor or other relevant agencies.

Document Control			
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Reviewer	Executive Officer	Approval	Council
Document Compliance			
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Other	<ul style="list-style-type: none">Shire of Plantagenet Customer Service CharterDevelopment Compliance and Enforcement GuidelinesCustomer Service Requests and Complaints Handling		
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