
HABITUAL AND/OR VEXATIOUS COMPLAINANTS

1 SUMMARY

- 1.1 This report proposes a policy to deal with habitual and/or vexatious complainants.

2 INTRODUCTION

- 2.1 The aim of this policy is to deal fairly, honestly and properly with complainants whilst ensuring that other service users, officers, or the Council as a whole do not suffer any detriment from persons making repeated and/or vexatious complaints or who behave in a threatening or difficult way, whilst recognising the rights of all complainants under the Human Rights Act 1998.
- 2.2 The vast majority of those we deal with are responsible in how they act and behave with courtesy and fairness. However, habitual and/or vexatious complaints arise from time to time. The difficulty in handling such complaints can cause undue stress for staff and place a strain on time and resources. Staff are expected to respond with patience and sympathy to the needs of all complainants but there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.
- 2.3 This policy document will be incorporated into the Council's Complaints Procedure and made available to members of the public to raise their awareness of it but its primary function is for internal use. It should be recognised, however, that implementation of the policy will occur only in exceptional circumstances.

3 BACKGROUND AND PURPOSE OF POLICY

Background

- 3.1 In determining arrangements for handling such complaints, staff are presented with two key considerations:
- To ensure that the Complaints Procedure has been correctly implemented so far as possible and that no material element of a complaint is overlooked or inadequately addressed and to appreciate that habitual or vexatious complaints can have aspects that contain substance. The need to ensure an equitable approach is crucial.
 - To be able to identify the stage at which a complaint has become habitual or vexatious.

Purpose of the Policy

- 3.2 Complaints about Rochford District Council are considered in accordance with the Council's Complaints Procedure. The aim of our habitual and/or vexatious complaints policy is to:
- Outline the criteria that will be used in defining a habitual and/or vexatious complaint.
 - Set out how such a complaint will be handled.
- 3.3 This policy will be used as a last resort and after all reasonable measures have been taken to try to resolve complaints during the Complaints Procedure. Judgement and discretion will be used in applying the criteria to identify potential habitual or vexatious complaints and in deciding action to be taken in specific cases. The policy will only be implemented following careful consideration by, and with the authorisation of a member of the Operational Management Team.
- 3.4 In considering its implementation, this policy will be shared with all complainants to give them prior notification of its possible implementation, should the complainant's unreasonable actions/behaviour continue.

4 THE POLICY

- 4.1 The policy is set out at Appendix 1 to this report.

5 RECOMMENDATION

- 5.1 It is proposed that the Committee **RESOLVES** to adopt the policy set out at Appendix 1 to this report.

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Background Papers:-

None

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APPENDIX 1Dealing with Habitual or Vexatious Complaints

Where complaints have been identified as habitual or vexatious in accordance with the criteria set out in the attached schedule, the relevant Head of Service will determine what action to take. He/she will implement such action and will notify complainants, in writing, of the reasons why their complaint has been classified as habitual and/or vexatious and the action that will be taken. For completeness, this notification may be copied to any others involved, for example Heads of Service, Councillors, Partnership Organisations, Contractors, Members of Parliament. A record will be kept, for future reference, of the reasons why a complaint has been classified as habitual or vexatious.

A Head of Service may decide to deal with habitual or vexatious complaints in one or more of the following ways:

- In letter, setting out a code of commitment and responsibilities for the parties involved if Rochford District Council is to continue processing the complaint. If these terms are contravened, consideration will then be given to implementing other action as indicated below.
- Decline contact with the complainant, either in person, by telephone, by fax, by letter, by e-mail 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 person.
- Notify the complainant, in writing that the Council has responded fully to the points raised and has tried to resolve the complaint but that 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 and that further letters received on the same matter will be acknowledged advising the complainant that they are being treated as a persistent or vexatious complainant and as such the Council does not intend to engage in further correspondence dealing with the complaint.
- Inform the complainant that in extreme circumstances the Council reserves the right to seek legal advice on unreasonable or vexatious complaints.
- Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual and/or vexatious, while seeking advice or guidance from the its solicitor or other relevant agencies, such as the Local Government Ombudsman, External Auditor.

Withdrawing Habitual or Vexatious Status

Once a complainant has been determined to be habitual and/or vexatious, their status will be kept under review and monitored by Corporate Management Board. If a complainant subsequently demonstrates a more reasonable approach or if they submit a further complaint for which the normal Complaints Procedure would appear appropriate their status will be reviewed.

As was the case in originally identifying a complaint as habitual or vexatious, staff will use the same discretion in recommending that this status be withdrawn when appropriate. Where this appears to be the case, discussion will be held with the relevant Head of Service and subject to their approval, normal contact with the complainant will then be resumed. The Head of Service will advise the complainant in writing of the change of status.

Monitoring Arrangements

Statistical information will be presented quarterly to Corporate Management Board with details of complainants who are categorised as habitual and/or vexatious.

1 SCHEDULE

Definition Of A Habitual Or Vexatious Complaint

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

Where complainants:

1. Persist in pursuing a complaint where the Council's Complaints Procedure 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 upon receipt of a response 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 judgement will be used in applying this criteria.
6. Have threatened or used physical violence towards staff at any time - this will, in itself, cause personal contact with the complainant and/or their representatives to be discontinued and the complaint will, thereafter, only be continued through written communication. All such incidences will be documented. **Rochford District Council has determined that any complainant who threatens or uses actual physical violence towards staff will be regarded as a vexatious complainant and will receive written confirmation of the same from the appropriate Head of Service. This will also inform the complainant of the action to be taken with regard to any further communications received.**
7. Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council - placing unreasonable demands on staff. For the purposes of determining an excessive number, a contact may be in person, by telephone, letter, e-mail or fax. Discretion will be used in determining the precise of number of excessive contacts applicable under this section, using judgement based on the specific circumstances of each individual case.
8. Have harassed or been personally abusive or verbally aggressive on more than one occasion towards staff dealing with the complaint. Staff recognise, however, that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. They will document all instances of harassment, abusive or verbally aggressive behaviour.
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 customer/complainant relationships 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.