

Council Policy – Habitual or Vexatious Complainants

Responsible Directorate	Community Engagement
Responsible Business Unit/s	Communications and Customer Engagement
Responsible Officer	Manager Communications and Customer Engagement
Affected Business Units	All

Objective

Habitual or vexatious complaints can be a problem for Shire of Serpentine Jarrahdale (Shire) staff and Elected 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 Shire 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.

The objective of this Policy is to:

1. identify situations where a complainant, or a group of complainants, might be considered to be “habitual or vexatious” and ways of responding to these situations.
2. assist in identifying and managing persons who seek to be disruptive to the Shire through pursuing an unreasonable course of conduct.

Scope

This Policy applies to all interactions between the Shire and individuals or groups who are identified as habitual or vexatious complainants.

Policy

Introduction

Section 5.130 of the *Local Government Act 1995* provides that the Chief Executive Officer can restrict communication about complaints in certain circumstances. This Policy aligns with the provisions in the Act and Part 10A of the *Local Government (Administration) Regulations 1996*.

Habitual or Vexatious Complainants

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 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 to restrict communication in line with the *Local Government Act 1995* (the Act). Schedule B details how communication may be restricted.

3. The CEO will notify complainants, in writing:
 - a. the reasons why communication will be restricted, including why the complaint has been deemed to be habitual or vexatious
 - b. the subject matter to which the decision applied,
 - c. the period during which the decision applies, up to a maximum of 12 months, and
 - d. details of how the complainant can make a general complaint to the Inspector in relation to the CEO's decision.

The CEO will also notify the Elected Members that a constituent has been designated as a habitual or vexatious complainant.

4. Nothing under point 3 above will prevent a complainant from attending a Council or committee meeting or raising a question at a meeting, participating in an election, making an authorised application, requesting a special meeting of electors, or making a submission on certain Shire matters.

Schedule A – Criteria for Determining Habitual or Vexatious Complainants

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 adjacent issues. 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 as being factual or deny receipt of an adequate response despite 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 Shire to help them specify their concerns, and/or where the concerns identified are not within the remit of the Shire to investigate.
6. Have threatened or used physical violence towards employees at any time. This will cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written communication. 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 Shire is to be made. The Shire will also notify the WA Police of any threat or use of violence.
7. Have placed unreasonable demands on Shire staff in the course of addressing a registered complaint. This may be through an excessive number of contacts with the Shire or demanding responses more urgently than is reasonable or within the Shire's Complaints Resolution policy. A contact may be in person, by telephone, letter, email, fax or online.

8. Have harassed or been verbally abusive on more than one occasion towards employees dealing with the complaint, whether in person, on the phone, via email, or online. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this.
9. Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
11. Make unreasonable complaints which impose a significant burden on the human resources of the Shire and where the complaint:
 - a. Clearly does not have any serious purpose or value; or
 - b. Is designed to cause disruption or annoyance; or
 - c. Has the effect of harassing the public authority; or
 - d. Can otherwise fairly be characterised as obsessive or manifestly unreasonable.

Schedule B – Restricting Communication with Habitual or Vexatious Complainants

Where the CEO has decided that a complainant is a habitual or vexatious complainant and that communication is restricted, the CEO may implement one, or a combination of, the following options, 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 of the parties involved if the Shire is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
2. Only accept calls at a specified time and on specified days.
3. Decline contact with the complainant, provided that one form of contact is maintained, either in person, via telephone, or in writing. 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 writing.

If contact is to be in person or via phone, the complainant will be required to make an appointment to speak with the nominated officer.

4. Block calls from a specific number or ignore written communication regarding the subject matter or category of subject matter to which the decision applies.
5. Only respond to future correspondence that provides significant new information or raises a new issue that the Shire decides warrants action.
6. Inform the complainant that in certain circumstances the Shire will seek legal advice on habitual or vexatious complaints.
7. 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 something is done repeatedly or as a habit.

Vexatious 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.

Related Documents

- Council Plan 2023-2033

Legislation / Local Law Requirements

- *Local Government Act 1995*

Amendment Record

Relevant Delegations		Nil	
		Date	Resolution Number
Council Adoption		18 December 2017	OCM179/12/17
Version	Date	Resolution Number	Amendment Details
2	17 March 2025	OCM068/03/25	New template and updated scope
3	10 February 2026	OCM-26-2026	Updated to reflect legislative changes