

Guidance Note: Dealing with Vexatious or Persistent Complainants

Introduction

1. Many complainants are angry and aggrieved, sometimes with good cause. Most behave in legitimate ways. A very small minority make complaints that are vexatious, in that they persist unreasonably with their complaints, or make complaints in order to make life difficult for the Council rather than genuinely to resolve a grievance. This may involve making serial complaints about different matters, or continuing to raise the same or similar matters over and over again.
2. This note sets out guidance for dealing with vexatious complainants.

The problem in perspective

3. It may seem that there are more vexatious complainants than is the reality. They can be difficult and time consuming, and so they tend to stay in mind. In fact, their numbers are small.

IS A COMPLAINT VEXATIOUS?

4. It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It is important to remember that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of the case rather than their attitude.
5. Even though someone has made vexatious complaints in the past, it cannot be assumed that the next complaint is also vexatious. Each complaint must be considered, and a decision made as to whether it is vexatious or genuine. There is no way of avoiding reading and evaluating each piece of correspondence. This need not be time consuming, but it must be done.

COMPLAINTS ABOUT THE SAME MATTER

a) No new information

6. If a complaint is about essentially the same matter that has already been considered, with only very minor differences, and does not contain any new information, the following action should normally be taken:
 - If the complainant has not exhausted the Council's complaints procedure, they should be referred to the next stage of the procedure. Another officer should then check that the decision on the complaint is correct, and write to tell the complainant telling them how to escalate their complaint in the normal way.
 - If they have exhausted the complaints procedure but not been to the Ombudsman, they should be referred to the Ombudsman. They should be advised that if they wish to complain to the Ombudsman, that they should do so sooner rather than later.

- If the Ombudsman has found there is a case of maladministration, the Council will consider the report.
 - If they have been to the Ombudsman, and they do not agree with the Ombudsman's decision, they should be referred back to the Ombudsman.
7. If the complainant does not pursue the complaint to the next stage, and continues nonetheless to correspond, the correspondence must be read by the officer who originally dealt with the complaint. If it raises no significant new matters and presents no new information, the earlier advice should be referred to (see point 6 above). The complainant should be warned that the Council will not enter into any further correspondence about the matter, other than as set out above.
 8. If the complainant still does not take this advice, any further correspondence that does not raise any significant new matters or present any new information should simply be filed with no acknowledgment sent.

b) New information

9. If the complaint contains new information, this must be evaluated by the officer dealing with the complaint. A response should then be sent the complainant. The letter must include telling the complainant of the next appropriate stage in the complaints procedure.

COMPLAINTS ABOUT SIMILAR MATTERS

10. The most difficult vexatious complaints to deal with are often complaints that are slightly different from the original complaint, but about the same broad area of activity. A decision will have to be made as to whether or not the matters are sufficiently different to justify being considered as a new complaint (see below).

Complaints about different matters

11. If a complainant keeps making complaints about different matters, each complaint should normally be considered in the usual way under the complaints procedure.

Trivial complaints

12. However, if the new complaints are about entirely trivial matters, or matters that have clearly not caused the complainant any injustice, it may be appropriate to close down the complaint at Stage 1. This should only be done with the agreement of the Director concerned in consultation with the Council's Complaints Champion (the Head of Corporate Law and Monitoring Officer). The complainant should be told this, and there is no need to provide any right to appeal other than to the Ombudsman. Subsequent complaints should then simply be noted.

VEXATIOUS COMPLAINTS MADE BY TELEPHONE

13. A complaint to the Council does not have to be made in writing. However, if a complainant keeps telephoning either to discuss an existing complaint or to make

a new complaint, and this is proving time consuming and disruptive, it may be reasonable to ask them to put their concerns in writing and to discontinue the call. If the problem persists, it may be reasonable to tell the complainant that the Council will, for a set period, not accept telephone calls and only deal with the complainant in writing.

14. If the complainant is told that the Council will only deal with his or her concerns in writing, a letter should be sent to the complainant to confirm this, how long the ban will apply, and the reason for it. At the end of the period the matter should be reviewed, and the ban lifted if appropriate.
15. There should never be a blanket ban for an unspecified period of time.
16. The decision should be made by the relevant Director in consultation with the Council's Complaints Champion.

Co-ordinating dealings with vexatious complainants

17. Vexatious complainants often contact many different people within the Council, and can try and take advantage of the differing responses they may receive. It is important to try and ensure that a vexatious complainant has one main contact within the Council. In such circumstances, the Council's Complaints Champion will be able to advise on the best approach, usually by identifying a single point of contact.

Saying 'no' and safeguarding the Council's resources

18. It is important not to spend large amounts of time on vexatious complainants, but skill will be needed to try and avoid inflaming an already difficult situation. It may sometimes be worth spending a bit of time defusing a situation, rather than taking a hard line and then spending even more time holding that line. The best way of handling the situation will be a matter for judgement.
19. It is not necessary to meet a complainant's unreasonable demands, or to answer every single point in an unreasonable letter. Again, judgement will be required to separate a complainant's legitimate queries from those that are unreasonable, often all within the same complaint. Skill will be required to respond tactfully and sympathetically.

Threatening and Abusive Complainants and Harassment

20. Maidstone Borough Council is committed to a policy of Equal Opportunities for all, regardless of race or ethnic background, age, religious beliefs, sex, marital status or disability. As part of that commitment, the Council is committed to creating and preserving a working environment throughout the organisation where harassment and threatening or abusive behaviour is deemed both unacceptable and intolerable.
21. The legal definition of harassment is "Unwanted conduct that violates a person's dignity or creates an intimidating, hostile, degrading, humiliating or offensive

environment, having regard to all the circumstances and the perception of the victim.” (Employment Equality [Religion or Belief] Regulations December 2003). Examples of such behaviour can include:

- offensive sexual or racial remarks or offensive remarks about a person’s disability
- unwanted physical contact or assault
- intimidation
- threats
- excessive swearing or foul language

This list is not exhaustive, but is designed to give an indication of behaviour which can cause distress to someone through offence, embarrassment or fear.

22. Personal harassment is more difficult to describe but can be defined as unwanted and unwanted actions or behaviour, by one or more individuals, which causes others offence or embarrassment. It can either be an isolated incident or can be a number of acts which occur over a period of time.

Telephone Complaints

23. If a complainant is rude or abusive or takes an excessively long time to explain their complaint on the telephone, it is perfectly acceptable to terminate the conversation. A note should be taken of what was said (which counts against the complainant should the matter be escalated) and forwarded to the Council’s Complaints Champion. The Complaints Champion may determine that, for a set period of time, the Council will not accept telephone calls and only deal with the complainant in writing as set out in 14-17 above. The Complaints Champion may also decide to involve the police.

Written Complaints

24. If a written complaint is threatening or abusive, the complaint should be referred to the relevant Director for consideration. The Director may inform the complainant that the Council will not consider complaints that are threatening or abusive in tone and that the matter will be given no further consideration. In these circumstances, the letter should be filed and copied to the Complaints Champion.

Further advice

25. Advice on specific cases can be obtained from Paul Fisher, the Council’s Complaints Champion on 01622 602006.