

Standards Committee

16 September 2010



Procedure for Local Assessment of Complaints

Report of Colette Longbottom, Head of Legal and Democratic Services

Purpose of the Report

1. To invite members to update the Procedure for Local Assessment of Complaints in relation to habitual or vexatious complaints to Standards Committee.

Background

2. Whilst the majority of complaints about alleged breaches of the Code of Conduct to Standards Committee are genuine complaints, there has been an increase in the number of potentially habitual or vexatious complaints that have been made to Standards Committee in relation to a small number of Parish and Town Councils.
3. Habitual or vexatious complaints are a problem for Council officers and Members because they are time consuming and wasteful of resources in terms of officer and Member time that could otherwise be spent on Council priorities.
4. It is therefore proposed that a policy be adopted by Standards Committee which permits the Monitoring Officer, in consultation with the Chair of Standards Committee, to process habitual or vexatious complaints.
5. It is proposed that the following paragraph be inserted into paragraph 2.1.1 of the Procedure for Local Complaints.

“The Monitoring Officer, in consultation with the Chair of Standards Committee may apply the habitual or vexatious complaints policy to a complaint to Standards Committee where appropriate.”

6. A copy of the proposed habitual or vexatious complaints to Standards Committee policy is attached as Appendix 1. It is proposed that the policy be attached to the Procedure for Local Complaints.

Recommendations and Reasons

7. Standards Committee is invited to update the Procedure for Local Assessment of Complaints as outlined in this paragraphs 5 and 6 of this report.

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HABITUAL OR VEXATIOUS COMPLAINTS TO STANDARDS COMMITTEE POLICY

1. Introduction

- 1.1 This policy identifies situations where complainants, either individually or as part of a group, or a group of complainants, might be considered to be “habitual or vexatious” and ways of responding to these situations.
- 1.2 In this policy the term habitual means “done repeatedly or as a habit”. The term vexatious is recognised in the dictionary of law and means “an action brought for the purpose of annoying the opponent and with no reasonable prospect of success”. This policy is intended to assist in identifying and managing persons who seek to be disruptive to the Standards Committee through pursuing an unreasonable course of conduct.
- 1.3 Habitual or vexatious complaints can be a problem for officers and members. The difficulty in handling such complaints 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 Standards Committee endeavours to process all complaints under the local assessment procedure there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

2. Habitual or Vexatious Complainants

- 2.1 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.

- 2.2 Prior to considering its implementation, the Monitoring Officer will send a summary of this policy to the complainant to give them prior notification of its possible implementation.
- 2.3 Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out in Schedule A the Monitoring Officer will consult with the Chair of the Standards Committee to seek agreement to treat the complaint as habitual or vexatious and for an appropriate course of action to be taken.

Schedule B details the options available for dealing with habitual or vexatious complaints.

- 2.4 The Monitoring Officer will notify complainants, in writing of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. The Monitoring Officer will also notify the Ward Member that a constituent has been designated as a habitual and vexatious complainant to Standards Committee.
- 2.5 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 Monitoring Officer with reports being taken to Standards Committee as required. If a complainant subsequently demonstrates a more reasonable approach then their status will be reviewed.

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 that they meet **one** of the following criteria:

Where complainants:

- 1) persist in pursuing a complaint to Standards Committee where the Standards Committee process has been fully and properly implemented and exhausted.
- 2) persistently change the substance of a complaint or frequently raise new issues or seek to prolong contact by frequently raising further concerns or questions whilst the complaint to Standards Committee 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 a separate complaint to Standards Committee.)
- 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 after a long period of time has elapsed.
- 4) repeatedly do not clearly identify the precise issues which they wish to complain about despite reasonable efforts of officers to help them specify their concerns and/or where the concerns identified do not within the remit of the Standards Committee.
- 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 a trivial matter is can be

subjective and careful judgement will be used in applying this criteria.

- 6) has threatened or used physical violence towards employees at any time. This will itself cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, therefore, only be continued to be written communication. The Council must determine that 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 Council is to be made.
- 7) have in the course of addressing a complaint to Standards Committee had an excessive number of contacts with the Council, placing unreasonable demands on officers. A contact may be made in person by telephone, letter, email or fax. Judgment will be used to determine excessive contact taking into account a specific circumstance of each individual case.
- 8) have harassed or been verbally abusive on more than one occasion towards officers dealing with Standards Committee complaints. Officers 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.
- 9) are known to have recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.
- 10) make unreasonable demands on the Council and its employees and fail to accept these may be unreasonable, for example insist on an action being taken by Standards Committee which falls outside of its remit.
- 11) make unreasonable complaints which impose a significant burden on the human resources of the Council and where the complaint:
 - clearly does not have any serious purpose or value; or
 - is designed to cause disruption or annoyance; or
 - has the effect of harassing the Council; or
 - can otherwise fairly be characterised as obsessive or manifestly unreasonable
- 12) make repetitive complaints and allegations which ignore the replies which the Council has supplied in previous correspondence

Schedule B - Options for dealing with habitual or vexatious complainants

The options below can be used singularly or in combination depending on the circumstances of the case and whether the complaint to Standards Committee is ongoing or completed.

- 1) A letter to the complainant setting out responsibilities for the parties involved if Standards Committee is going to assess the complaint. If terms are contravened, consideration will then be given to implementing other action as indicated below.
- 2) Decline any 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 the complainant is notified of this person.
- 3) 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.