

Purpose

Habitual or vexatious complaints can be a problem for the Shire of Boddington (Shire) employees and Council Members. The difficulty in handling such complainants is that they are time consuming and wasteful of resources in terms of time and displace scarce human resources that could otherwise be spent on Council priorities. Whilst Council endeavours to respond with patience and sympathy to all needs of all complainants, there are times when there is nothing further that can be reasonably done to assist or to rectify a real or perceived problem.

The purpose of this Policy is to identify situations where a complainant, either individually or as part of a group, or group of complainants might be considered to be 'habitual or vexatious' and ways of responding to these situations. This Policy is intended to assist in identifying and managing persons who seek to be disruptive to Council through pursuing an unreasonable course of conduct.

Scope

This Policy applies to Shire of Boddington Council Members and employees, as well as, members of the public.

Definitions

Term	Meaning
Policy	This Shire of Boddington policy titled "Habitual or Vexatious Complainants".
Habitual	Done repeatedly or as a habit.
Vexatious	Denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant.
Habitual or Vexatious Complainant	The repeated and/or obsessive pursuit of: <ol style="list-style-type: none"> a) Unreasonable complaints and/or unrealistic outcomes; and/or b) Reasonable complaints in an unreasonable manner.

Policy Statement

Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out below within this Policy, the Chief Executive Officer, following discussions with the Executive Leadership Team, is to make the determination whether to treat the complainant as a habitual or vexatious complainant and for an appropriate course of action to be taken.

The Chief Executive Officer is to notify the complainant, in writing, of the reasons why their complaint is being treated as habitual or vexatious, and the action that is to be taken.

Once a complainant has been determined to be habitual or vexatious, their status is to be kept under review after one year and monitored by the Chief Executive Officer. If a complainant subsequently demonstrates a more reasonable approach then their status is to be reviewed.

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 evidences how they meet one of the following criteria:

- Complainant persists in pursuing a complaint where the Shire's complaints process has been fully and properly implemented and exhausted.
- Complainant persistently changes the substance of a complaint, continually raises new issues, or seeks to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. However, care is to be taken not to disregard new issues which are significantly different from the original complaint as they are to be addressed as separate complaints.
- Complainant is 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.
- Complainant repeatedly does not clearly identify the precise issue/s 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.
- Complainant regularly focuses on a trivial matter to an extent which is out of proportion to its significance. It is recognised that determining what a 'trivial matter' is can be subjective and careful judgement is to be used in applying this criteria.
- Complainant has threatened or used physical violence towards Shire employees at any time. This is to result in personal contact with the complainant and/or their representative to be discontinued and the complaint is to be continued only through written communication thereafter. Any complainant who threatens or uses physical violence towards employees is to be regarded as a vexatious complainant. The complainant is to be informed of this in writing together with notification of how future contact with the Shire is to be made.
- Complainant has, in the course of addressing a registered complaint, had an excessive number of contacts with the Shire, placing unreasonable demands on employees. Judgement is to be used to determine excessive contact, taking into account the specific circumstances of each individual case.
- Complainant has harassed or been verbally abusive on more than one occasion to employees dealing with the complaint. Employees are to recognise that complainants may sometimes act out of character in times of stress, anxiety, or distress and are to make reasonable allowances for this.
- Complainant is known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- Complainant makes unreasonable demands of Council and/or Shire employees, and fails to accept that these may be unreasonable. For example, insisting on responses to complaints or enquiries being provided more urgently than is reasonable or within the Shire's complaints procedure or normal recognised practice.
- Complainant makes unreasonable complaints which impose a significant burden on the human resources of the Shire where the complaint:
 - Clearly does not have any serious purpose or value,
 - Is designed to cause disruption or annoyance,
 - Has the effect of harassing the public authority, or
 - Can otherwise be characterised as obsessive or manifestly unreasonable.
- Complainant makes repetitive complaints and allegations which ignore the replies supplied in previous correspondence.

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 process is ongoing or completed:

- A letter to the complainant setting out responsibilities for the parties involved if the Shire is to continue processing the complaint. If terms are contravened, consideration is to be given to implementing other actions from this list.

- Decline contact with the complainant either in person, by telephone, letter or email, or any combination of these provided that one form of contact is maintained. This may also include only one named officer being nominated to maintain the contact (and a named deputy in their absence). The complainant is to be notified of this in person.
- Notify the complainant in writing that the Shire has responded fully to the points raised, has tried to resolve the complaint, there is nothing more to add, and continuing contact on the matter serves no useful purpose. The complainant is to be notified that the correspondence is at an end, that they are being treated as a habitual or vexatious complainant, and as such, the Shire does not intend to engage in further correspondence dealing with the complaint.
- Inform the complainant that in extreme circumstances the Council may seek legal advice on habitual or vexatious complaints.
- 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 relevant agencies.

Responsible Officer	Chief Executive Officer
History	Adopted 18 February 2021 (Resolution 9/21) Amended 23 March 2023 (Resolution 25/23)
Delegation	
Relevant Legislation	Local Government Act 1995
Related Documentation	Customer Service Charter