

MALDON DISTRICT COUNCIL HABITUAL AND VEXATIOUS COMPLAINTS POLICY AND GUIDANCE

1. Introduction

- 1.1 Maldon District Council is pleased to hear from its customers when services are appreciated, but we also want to know when things go wrong. We are committed to dealing with complaints fairly and impartially and to providing a high quality service to those who make use of them. As part of this service the Council does not normally limit the contact that customers have with its officers.
- 1.2 However, a very small minority of customers 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. The frequency of contact with the Council can hinder the consideration of their complaints and the ability of officers to provide a quality service to customers as a whole.
- 1.3 How we manage these customers will depend upon their nature and extent. If their persistence adversely affects our ability to do our work and provide a service to others, we may need to address unacceptable behaviour by restricting contact with our offices.

2. Maldon District Council's Policy commitment

- 2.1 The Council recognises that it is important to distinguish between people who make a number of complaints because they genuinely believe things have gone wrong, and people who are simply being difficult. We acknowledge that complainants will often be frustrated and aggrieved and it is therefore important to consider the merits of their case rather than their attitude.
- 2.2 Similarly, 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.

3. Aim and scope of the Policy

- 3.1 This policy and guidance covers all Corporate Complaints made to the Council including those related to Freedom of Information requests. It sets out the Council's approach to dealing with habitual vexatious complaints so that both staff and customers can be clear what to expect.
- 3.2 **Appendix 1** lists a range of situations that the Council may consider to be vexatious.
- 3.3 This policy should be used in conjunction with:
- Corporate Feedback Procedure
 - Complaints Member Code of Conduct

- Harassment and Bullying Policy
- Whistleblowing Policy
- Freedom of Information Process, Procedure and Guidance

4. Review

- 4.1 This policy and the guidance will be reviewed by the Head of Customer and Democratic Services annually. This will help us ensure that these documents are up to date and fit for purpose.

5. Guidance for staff

Please note: While the following guidance refers to written correspondence, staff should take into account the complainant's preferred method of communication. For example if a person has literacy issues and prefers to be contacted by telephone, the Head of Service or Monitoring Officer should provide verbal confirmation that the individual has been included on the register.

How to handle different types of vexatious complaints

Complaints about the same matter (habitual complainants)

If the customer:

- refuses to pursue the complaint to the next stage; or
- the Corporate Complaints and Ombudsman processes have been exhausted; and
- the customer continues to correspond; then

the correspondence must be read by an officer familiar with the complaint. If it raises no significant new matters and presents no new information, the Head of Service or Monitoring Officer will write to the customer to warn them that the Council will not enter into any further correspondence about the matter.

If the customer still does not take this advice, the Head of Service or Monitoring Officer may decide that any further correspondence that does not raise any significant new matters or present any new information may be filed with no acknowledgment sent.

If the complaint does contain new information of a material nature, this must be evaluated by the officer dealing with the complaint and a response should then be sent to the customer. The complaint will then re-enter the complaints procedure at an appropriate Stage.

Complaints about similar matters

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

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

The following are potential exceptions to this rule:

- If the volume of correspondence/or communication starts to impact on council resources even if the staff involved are in different services, it may be useful to hold a meeting with the complainant to find if there is a more effective way for the correspondence to be dealt with. This may bring to light an underlying, common cause for the various complaints.
- If the new complaints are about entirely trivial matters, or matters that have clearly not caused the customer any injustice, it may be appropriate to close down the complaint at Stage 1. This should only be done with the agreement of the Strategic Director or the Chief Executive. The customer 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.
- A complaint to the Council does not have to be made in writing. However, if a customer 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 consider restricting future contact.

Freedom of Information

Complaints related to Freedom of Information (FOI) are dealt with through the Corporate Complaints Procedure up to and including Stage 2. If they continue after Stage 2, instead of being referred to the Local Government Ombudsman, FOI complaints are referred to the Information Commissioner's Office.

The designated FOI officer will need to be involved in any discussions with the Head of Service and Strategic Director around contact restriction with FOI complainants.

Restricting contact

Any restrictions will be agreed by the Strategic Director or the Chief Executive and will be appropriate and proportionate to the nature of the complainant's contacts with the council at that time. The following are examples of the types of restriction which may be used:

- Placing time limits on telephone conversations and personal contacts
- Restricting the number of telephone calls that will be taken (for example one call on one specified morning/afternoon of any week)
- Limiting the customer to one medium of contact (telephone, letter, e-mail etc)
- Requiring the customer to communicate only with a named employee

- If a complaint is currently going through the council's complaints procedure, asking the customer to enter into a written agreement about their future conduct if the complaint is to be progressed
- Requiring any personal contacts to take place in the presence of a witness
- Closing the investigation into a complaint
- Refusing to register and process further complaints providing the customer with acknowledgements only of further letters, faxes, or e-mails received after a particular point
- Banning a customer from some or all of the Council's premises
- Involving the police in cases where we believe the customer has committed a criminal offence (for example, harassment, assault on staff or criminal damage), where assault is threatened, or where the customer refuses repeated requests to leave council premises.

Where this policy is applied, the customer will be told in writing why a decision has been made to restrict future contact, the restricted contact arrangements, the length of time that these restrictions will be in place and what they can do to have the decision reviewed.

There should never be a blanket ban for an unspecified period of time.

Wherever possible, we will apply restrictions in a way that allows a complaint to progress to completion through our complaints process. We will try to maintain at least one form of contact. In extreme situations, we will tell the customer in writing that their name is on a 'no personal contact' list contained in the council's Awareness Register. This means that they must restrict contact with our office to either written/taped communication or through a third party advocate or representative.

In deciding which restrictions are appropriate, careful consideration will be given to balancing the rights of the individual with the need to ensure other customers and our employees do not suffer any disadvantage and the resources of the council are used as effectively as possible. When a Head of Service or Strategic Director feels that it is appropriate to include a customer on the Awareness Register, they need to complete the form attached at **Appendix 2** and pass it to the Chief Executive as a final check on proportionality. The details will then be entered on the register by the Head of Service or Monitoring Officer. At this stage the Monitoring Officer or Strategic Director will also notify the relevant Maldon District Council Ward Member, if any, that a constituent has been designated as a habitual or vexatious complainant and their details have been entered on the Awareness Register.

Appendix 3 sets out the procedure in a flowchart.

Where it is decided to restrict contact, a note will also be made in the relevant files and computer records relating to that customer.

All information held on the Awareness Register will be reviewed every twelve months as part of the evaluation and review process for the effectiveness of the policy unless the Head of Service has stipulated a shorter period in their referral. A customer can appeal a decision to restrict contact by contacting the Local Government

Ombudsman (LGO), unless the complaint has already been considered in full by the LGO.

Restricting contact by the customer does not mean that their correspondence will not be read at all. Any further letters, faxes or e-mails, telephone calls from the customer will need to be considered in case they contain any significant new information.

When persistent complainants make new complaints about new issues these will be treated on their merits and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.

Some examples of the behaviour of persistent complainants

- Refusal to specify the grounds of a complaint, despite offers of assistance with this from Council staff
- Refusal to co-operate with the complaints investigation process or insistence on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice
- Making what appear to be groundless complaints about the employees dealing with the complaints or attempting to use the complaints procedure to pursue a personal vendetta against an employee or team
- Making unnecessarily excessive demands on the time and resources of Council staff whilst a complaint is being looked into
- Refusal to accept information provided, for no apparent good reason
- Changing the basis of the complaint as the investigation process goes on and/or denying statements he/she made at an earlier stage
- Making statements or providing manufactured 'evidence' the customer knows are incorrect or persuading others to do so
- Raising at a late stage in the process, significant new information which was in the customer's possession when he or she first submitted a complaint
- Introducing trivial or irrelevant new information or raising large numbers of detailed but unimportant questions and insisting they are all fully answered
- Lodging numbers of complaints in batches over a period of time, resulting in related complaints being at different stages of a complaints procedure
- Refusal to accept that issues are not within the remit of a complaints procedure or demanding outcomes which the complaint procedure cannot in itself provide such as the overturning of court decisions, dismissal or criminal prosecution of staff
- Electronically recording meetings, telephone calls and conversations without the prior knowledge and consent of the other persons involved
- Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being investigated by, for example, excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses
- Adopting an excessively 'scattergun' approach, for instance pursuing a complaint or complaints with the Council and at the same time with a Member of Parliament/a councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the Ombudsman
- Seeking to coerce, intimidate or threaten staff or other people involved, whether by use of language, tone of voice or behaviour including body language
- Submitting repeat complaints, after the complaints process has been completed, essentially about the same issues, with additions/variations which the customer insists make these 'new' complaints which should be put through the full complaints procedure
- Using valid new complaints to resurrect issues which were included in previous complaints
- Persistence in contacting the Council and demanding responses or action long after the council has closed the investigation into a complaint and all rights of review and appeal have been exhausted

**Restricted Contact Awareness Register
Database Entry Request**

To be completed by Head of Service, Strategic Director or Monitoring Officer

Details of person to be placed on register

Last name:	First Name:
Also known as:	Contact details:
<p>Details of application:</p> <p>Describe the reason why you consider the complainant should be added to the register. Include information on</p> <ul style="list-style-type: none"> • The length of time you/colleagues have been in contact with the complainant • The amount of correspondence exchanged • The nature of the complaint(s) • The steps that have already been taken to resolve the situation <p>Attach copies of any relevant documentation</p>	
Name and contact details of officer(s) dealing with complainant:	

APPENDIX A

Authorising Head of Service name:	
Signed:	Date:
Authorising Strategic Director / Monitoring Officer name:	
Signed:	Date:
Chief Executive signature:	
Date:	
Nature of contact restriction:	

Please forward to the Head of Customer and Democratic Services

For Head of Customer and Democratic Services use only:

Date entered onto Awareness Register:	By:
Awareness Register reference number:	

Note: All entries on the Register will be reviewed after 12 months and the entry deleted if it is no longer necessary to retain the information for legal or operational reason

Procedure for restricting contact with Habitual or Vexatious Complainants

