
CGP028 – Habitual and Vexatious Complainants Management

1. Objectives

To identify situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual or vexatious.

This policy formalises the actions to be taken by the Shire of Waroona (Shire) in response to persons whose complaint conduct is considered unreasonable, vexatious, or habitual in nature.

2. Scope

The policy applies to elected members and employees of the Shire of Waroona.

3. Policy Statement

Habitual or vexatious, also known as unreasonable complaints can be a problem for Shire staff and elected members. Some complainants may persist in disagreeing with the action or decision taken in relation to their complaint or they may contact Councillors, the Chief Executive Officer (CEO) or the organisation persistently about the same issue.

The Ombudsman Western Australia classifies unreasonable complaint conduct into three broad categories:

- **Habitual or obsessive conduct**
This includes behaviour by a person who:
 - Cannot 'let go' of their complaint;
 - Cannot be satisfied despite the best efforts of the agency; and/or
 - Makes unreasonable or trivial demands on the agency where resources are substantially and unreasonably diverted away from its other functions or unfairly allocated (compared to other complainants).
- **Rude, angry, and harassing conduct**
This behaviour may include rude or otherwise vulgar noises, expressions or gestures, verbal abuse of a personal or general nature, or complaints which are delivered in a hostile, intimidating, or malicious manner.
- **Aggressive Conduct**
This includes complaints made by way of threatening or offensive behaviour, physical violence against property or physical violence against a person.

The difficulty in handling such complaints is that they are time consuming and wasteful of resources in terms of Officer and Council member time and displace limited human resources that could otherwise be spent on organisational priorities.

Whilst the Shire endeavours to respond to the needs of all complainants with patience, empathy and sincerity, in line with policy *CGP008 - Complaints About Decisions, Employees and Services*, there are times when there is nothing further which can reasonably be done to assist or to rectify a real or perceived problem.

3.1 Actions for Dealing with Habitual or Vexatious Complainants

Where a complaint has been considered by the Complaints Officer and the Council in accordance with this Policy, but the complainant refuses to accept the decisions and actions, as outcomes of the complaint, the CEO (or Complaints Officer) may advise the complainant, in writing that any single or a combination of the following actions have been determined:

Cease consideration and remove priority of all similar complaints

No further consideration will be given to complaints made by the complainant of any kind, that is the same, or substantially the same, and raises no new matters for consideration, when compared with previous communications. In extreme circumstances the Council will seek legal advice on habitual or vexatious complaints.

One written request is to be made to the complainant to discontinue repeat requests where the complainant has been provided with an answer and noting that this policy may apply if they continue. They are to be advised that they may raise other concerns which the Shire will address in line with normal practice.

Return of abusive or intimidating material

Correspondence to the Shire containing personal abuse, inflammatory statements or material clearly intended to intimidate employees or council members will be returned to the complainant and not acted upon.

Written correspondence to be provided to the complainant, detailing the inflammatory statements or intimidation. In the case of intimidation, if it is felt necessary for the safety of the employee or member, then the letter may indicate that a restraining order may be sought against the complainant should the intimidation continue. The correspondence may provide notice that no further contact with the complainant will be made except on receipt of written assurance that no continued inflammatory statements or intimidation will reoccur.

In the event of continuing intimidation, where there is concern of violence, a restraining order is to be considered.

Termination of telephone calls

Where such comments or statements are made in telephone conversations or interviews, these may be terminated at the discretion of Shire staff after a warning to the caller of that intention.

Limitations on communication and/or access to Shire facilities

The Shire may place a reasonable and proportionate limitation on one or more of the following:

1. The timing of communications, including time of day, and frequency and/or duration of contact with the Shire employees and Council members;
2. Form of communication – all communication to be made only in writing;
3. Access, such as restricting or prohibiting entry to Shire premises and resources; and
4. Any other limitation which is reasonable and appropriate and satisfies legislative requirements.

Shire may seek legal advice

In extreme circumstances the Shire may, at its discretion, seek legal advice with respect to implications of the suspected malicious, frivolous, or vexatious complaints.

All contact with the complainant, in connection with the issues relating to the person being considered habitual or vexatious, may be suspended by the Shire while it seeks legal advice or guidance from its solicitor or other relevant agencies.

In addition to the above actions, the CEO shall notify the complainant of their right to take the matter to the Ombudsman Western Australia (Ombudsman WA).

These actions should only be taken in cases where, having answered the queries and following a written request to discontinue the habitual or vexatious complaint, the complainant continues the inappropriate conduct.

In considering application of this process the Chief Executive Officer must have regard for Guidelines on Complaint Handling (Ombudsman WA Jan 2017).

3.2 Shire's response to legal action

If the Shire suspects that the complainant may take legal action against them, the case should be referred to LGIS (Local Government Insurance Scheme) as required under their terms of service on legal risk. If the complainant sends a complaint to the Minister for Local Government or Department of Local Government, Sport and Cultural Industry (DLGSC), the Shire should proactively follow suit by contacting the same Minister or DLGSC to advise of the Shire's perspective and position.

4. Recording complaints

All correspondence relating to a customer complaint must be recorded in Synergy – Shire of Waroona's records management system. Information recorded must be factual, accurate and current as per the *State Records Act 2000*.

The person dealing with the complainant should ensure all correspondence is recorded and should take file notes on verbal communications.

5. Legislative and Strategic Context

The Ombudsman Western Australia Guidelines – Dealing with Unreasonable Complainant Conduct provides the broad framework within which this policy operates.

6. Review

This policy is to be reviewed triennially.

7. Associated Documents

Other documents that have an association to this policy and that may be useful reference material are:

AP001 - Shire of Waroona Customer Service Charter
Ombudsman Western Australia Guidelines – Dealing with Unreasonable Complainant Conduct
CGP008 – Complaints About Decisions, Employees and Services
CGP025 – Enforcement and Compliance Complaints Policy

CGP023 – Code of Conduct Behaviour Complaints Management
 Code of Conduct Council Members, Committee Members and Candidates
 Code of Conduct for Employees and Volunteers
 G2 – Complaint About Alleged Breach Form

Division	Corporate and Governance				
Policy Number	CGP028				
Contact Officer	Chief Executive Officer				
Related Legislation	Local Government Act 1995 State Records Act 2000 Freedom of Information Act 1992 Public Interest Disclosure Act 2003				
Related Shire Documents	AP001 - Shire of Waroona Customer Service Charter CGP008 – Complaints About Decisions, Employees and Services CGP025 – Enforcement and Compliance Complaints Policy CGP023 – Code of Conduct Behaviour Complaints Management Code of Conduct Council Members, Committee Members and Candidates Code of Conduct for Employees and Volunteers G2 - COMPLAINT ABOUT ALLEGED BREACH FORM				
Risk Rating	Moderate	Review Frequency	Triennially	Next Review	May 2026
Date Adopted	28/11/2023				OCM23/11/163
Amendments					
	Details of Amendment				Reference
Previous Policies					
Nil					