



# **Habitual Complainants Policy**

### Document History

Issue	Change	Changed By	Authorised By
Draft 0.1	Initial Draft – No changes		
Draft 0.2	Incorporate comments from monitoring officer	Norman Coombe	Zoe Bulmer
Draft 0.3	Incorporate comments from Yvonne Salvin	Norman Coombe	Zoe Bulmer
Draft 0.4	Incorporate comments from Cllr L and officers	Norman Coombe	Zoe Bulmer
Draft 0.5	Incorporate comments from Cllr LGO and officers	Norman Coombe	Zoe Bulmer
Draft 0.5	Incorporate comments from CMT	Norman Coombe	Zoe Bulmer
Version 1			Annie Shepperd

### Distribution / Actions

Name	Job Title	Action
Yvonne Salvin		For comment
Deborah Collins	Monitoring Officer	For comment
Corporate Management Team		For review & comment
Annie Shepperd	Chief Executive	For review & sign-off

### Final distribution

This policy is available to all Southwark employees and Council members through The Source. Hard copies for distribution may be requested through the Customer Experiences team.

## **Habitual Complainants Policy**

### **1. Introduction**

- 1.1 Habitual complainants are an increasing problem. The difficulty in managing such complainants places a strain on time and resources and causes unacceptable stress for staff who may need support in difficult situations. Staff are trained to respond with patience and understanding to the needs of all complainants and their families, but there are times when there is nothing further that can reasonably be done to help them or to put right a real or perceived problem.
- 1.2 When considering how to manage these types of complainant, staff need to consider the following:
- that the complaints procedure has been correctly implemented and that no material element of a complaint has been overlooked or inadequately addressed. In doing so it should be appreciated that habitual complainants may have issues, which contain substance.
  - to identify the stage at which a complainant has become habitual.

### **2 Application of this Procedure**

- 2.1 This procedure applies to both staff and elected councillors where the councillors are acting on behalf of Southwark, for example, where a councillor is acting in an executive role as part of cabinet. The term staff in this procedure therefore includes elected councillor where they are acting on behalf of Southwark.
- 2.2 This policy will not apply to freedom of information requests considered as vexatious requests.

### **3 Purpose of this Procedure**

- 3.1 Complaints about the council or about services provided by contractors working for the council are processed in accordance with Southwark Council's complaints procedure. During this process, staff inevitably have contact with a small number of complainants who take up an unwarranted amount of council resources. The aim of this procedure is to identify situations where the complainant could be considered habitual and to suggest ways of responding to these situations.
- 3.2 The procedure will only be used as a last resort and after all reasonable measures have been taken to try to resolve complaints following the council's complaints procedure. Advocacy groups can be involved at the complainant's request.

### **4 Criteria for Recognition of a Habitual Complainant**

4.1 A complainant (and/or anyone acting on their behalf) may be considered to be habitual where current or previous contact with them shows that they meet any of the following criteria:

- persists in pursuing a complaint where the Council's complaints procedure has been fully implemented and exhausted. For example, where investigation is deemed to be "out of time" or where a request for independent review has been refused.
- changes the substance of a complaint, persistently raising new issues, unreasonably raising further concerns or questions on receipt of a response while the complaint is being dealt with. N.B. Care is taken not to disregard new issues which differ from the original complaint – these may need to be addressed as separate complaints.
- using new complaints to resurrect issues which were included in previous complaints.
- is unwilling to accept documented evidence of services provided as being factual (e.g. council tax or nursing records, or welfare rights advice). This may also extend to complainants who do not accept that facts can sometimes be difficult to verify after a long period of time has elapsed.
- insists they have not had an adequate response in spite of a large volume of correspondence specifically answering their questions/concerns.
- is unable to identify the precise issues they wish to be investigated, despite efforts to help them do so by staff and, where appropriate, advocacy groups.
- is unwilling or unable to accept that the concerns identified are not within the remit of the Council to investigate.
- focuses on a trivial matter to an extent, which is out of proportion to its significance and continues to focus on this point. It is recognised that determining what is trivia is subjective.
- makes repeated complaints which appear to be to avoid the payment of monies legally due, where there is not a real dispute.
- uses or threatens physical violence towards staff or their families/colleagues. This will in itself cause personal contact with the complainant and/or their representatives to be discontinued and

the complaint will only be pursued through written communication. All incidents are documented and reported, when appropriate, to the police.

- has an excessive number of contacts with the council placing unreasonable demands on staff. Such contacts may be in person, by telephone, letter, fax or electronically. The specific circumstances of each individual case are used in deciding how many contacts are excessive.
- pursuing complaints through a number of council departments or procedures and/or external agencies placing unreasonable demands on staff.
- harasses or is personally abusive or verbally aggressive on more than one occasion towards staff dealing with their complaint, or their families and/or colleagues. It is recognised that complainants may sometimes act out of character at times of stress, anxiety or distress and allowances are made for this. All incidents of harassment or aggression are documented and dated.
- electronically records meetings or conversations without the prior knowledge and consent of the other parties involved. It may be necessary to explain to a complainant at the start of the investigation into their complaint that such behaviour is unacceptable and can, in some circumstances, be illegal.
- acts in a vexatious or vindictive way that causes harm or distress to an officer, councillor or their families/colleagues.
- displays unreasonable demands or expectations and fails to accept that these may be unreasonable once a clear explanation has been given (e.g. insisting on the response to a complaint or enquiry being provided more urgently than is reasonable or recognised practice).
- is a relative/carer/friend complaining on behalf of someone, who may not have a complaint themselves
- attention seeking behaviour, involving MP, Secretary of State, Prime Minister etc.

## **5 Safeguarding Vulnerable Adults**

- 5.1 Some complainants may be repeatedly complaining because of mental health problems. Where this is the case any concerns that staff may have

about vulnerability should be raised in line with the safeguarding adults policy and procedures.

## **6 Procedure for Dealing with Habitual Complainants**

- 6.1 Managers and relevant councillors who believe a complainant is placing a strain on time and resources and causing unacceptable stress for staff or members will consult with the Customer Experience Manager or Monitoring Officer. The Customer Experience Manager will advise on what information is required to apply the policy.
- 6.2 A chronology of contacts will normally be prepared by the manager or councillor and documentation collated.
- 6.3 The Customer Experience Manager will consider the information provided by the manager or councillor and will decide if action is appropriate and will normally contact the complainant either by phone, in writing or by email to explain why this behaviour is causing concern, and ask them to change this behaviour. The Customer Experience Manager will explain the actions that the Council may take if the behaviour does not change.
- 6.4 However if behaviour is severe the Council may take action without notice.
- 6.5 If the behaviour continues, the Customer Experience Manager, after appropriate consultation will prepare a report for consideration by the Chief Executive. The report will detail the behaviour causing concern and detail the proposed action and the period.
- 6.6 The Chief Executive will consider the report and decide if the action is justified and proportionate. In the absence of the Chief Executive the Monitoring Officer will make the decision.
- 6.7 If the Chief Executive decides to take action, a letter will be sent from the Chief Executive detailing the action to be taken and for what period.
- 6.8 This letter will be copied to others already involved in the complaint such as practitioners, conciliator, CAB, Member of Parliament, advocates etc.

## **7 Action to be taken may include:**

- drawing up a signed agreement with the complainant (if appropriate, involving the relevant service head) setting out a code of behaviour for the parties involved if the Council is to continue dealing with the complaint.
- declining further contact with the complainant either in person, by telephone, fax, letter or electronically, including blocking access to a particular email address – or any combination of these – provided

that one form of contact is maintained. A suggested statement may be used by staff to help them end telephone conversations.

- restricting contact to liaison through a third party.
- writing to the complainant that the Chief Executive has responded fully to the points raised, that there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant is notified that the correspondence is at an end and that further communication will be acknowledged but not answered.
- informing the complainant that the Council reserves the right to refer unreasonable or habitual complainants to the Director of Communities, Law & Governance and/or the police where we believe a criminal offence has been committed.
- temporarily suspending all contact with the complainant, or investigation of a complaint, whilst seeking legal advice or guidance.
- banning the complainant from some or all of the council's buildings, if necessary by means of an injunction.

## **8 Reviewing Habitual Status**

- 8.1 The situation will be reviewed at the end of the period or if for more than one year after a minimum of one year to consider whether
- a more reasonable approach is being used by the complainant and
  - a different complaint is being reported, for which the usual complaints procedure needs to be implemented.
- 8.2 The review should be undertaken by the Customer Experience Manager and the Monitoring Officer, and the Customer Experience Manager will provide a report to the Chief Executive recommending what action is appropriate.

## **9 Monitoring use of the policy**

- 9.1 A list should be maintained of current habitual complainants by the Customer Experience Manager. This must be kept secure at all times.
- 9.2 Where possible, equality data should be collected of complainants.