

Discussion paper – Vexatious complaints

Standard complaints are to be handled in accordance with the 'Arrangements for dealing with Standards Complaints at Leicester City Council'. This procedure was brought in following the new standards regime introduced by Chapter 7 of the Localism Act 2011.

One of the initial actions open to the Monitoring Officer, after consultation with the Independent Person, is to reject the complaint 'on the basis that it is "... i) trivial or ii) not in the public interest to pursue or iii) **vexatious...**'. No definition is provided within our Arrangements of 'vexatious'.

The Localism Act and associated guidance make it clear that it is for the local authority to decide how they will investigate allegations for breach of conduct code and handle complaints. They do not specify what those arrangements must be. They do not include any specific rule(s) that state we must reject a vexatious complainant, or as to what constitutes a vexatious complaint. We are however not alone in seeking to exclude vexatious complaints, and this discussion paper is not designed to generate a debate about the principle. The Code and the Arrangements are approved by Full Council, and there is no suggestion presently to revisit the principle.

It is important to note that it is the complaint itself that must be judged vexatious, oppressive or an abuse, not the complainant. Consideration of this ground should therefore focus primarily on the current complaint. The complainant's past complaint history may, however, be taken into account where it is relevant to show that the current complaint is vexatious, oppressive or an abuse.

The MO and IP should be able to demonstrate with evidence a reasonable belief that the complaint is vexatious, oppressive or an abuse of process before deciding to disapply the Standards process. Some assessment of the complaint will be required in order to demonstrate this.

The LGO defines unreasonable and unreasonably persistent complainants as:

"those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's complaints"

Examples of unacceptable or vexatious behaviour, as defined by the LGO, include any action or series of actions which are perceived by the staff member to be “*deceitful, abusive, offensive, threatening*” whether they are delivered verbally or in writing or a combination of the two.

It is submitted that our definition of vexatious should include both limbs described above (that is, those that constitute unreasonable interpersonal behaviour as well as those that constitute unreasonable abuse of the system). Both represent behaviour which can potentially frustrate the proper application of the Standards regime in the interests of the wider public.

The following behaviours have been distilled by the Monitoring Officer from other policies that exist internally and externally which grapple with the task of defining a vexatious complaint.

- Refusing to specify the grounds of a complaint, despite offers of assistance;
- Refusing to co-operate with the complaints investigation process;
- Refusing to accept that certain issues are not within the scope of the Complaints Procedure (e.g. substantive Planning Approval decisions);
- Insistence on the complaint being dealt with in ways which are incompatible with the Arrangements or with good practice;
- Demanding special treatment / immediate repeatedly;
- Politically motivated complaints
- Changing the basis of the complaint as the investigation proceeds;
- Denying or changing statements made at an earlier stage;
- Introducing trivial or irrelevant new information at a later stage;
- Raising numerous, detailed but unimportant questions; insisting they are all answered;
- Covertly recording meetings and conversations;

- Submitting falsified documents from themselves or others;
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue;
- Making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous Council staff, or detailed letters every few days, and expecting immediate responses;
- Submitting repeat complaints with minor additions/variations that the complainant insists make these 'new' complaints;
- Repeatedly arguing points with no new evidence
- Refusing to accept the decision as to how the complaint shall be progressed

Process:

More usually, consideration of designating a complaint as vexatious will arise at the early stages of receipt of a complaint. However, it is suggested that this should not impeded the MO and IP from considering whether the designation of "vexatious" should apply at a later stage in any complaint.

Whenever the issue is raised, the IP and the MO must discuss the designation and reach a unanimous view. Exceptionally, where they cannot do so the second IP may be consulted and a majority view shall prevail.

The designation of a complaint as "vexatious" will be recorded with brief reasons given and communicated to the complainant and the Subject Member, with a right of "review" afforded as per the Arrangements.