

<b>Title:</b>	<b>2.11 Complaints Handling</b>
<b>Previous No:</b>	
<b>File No:</b>	
<b>Statutory Environment:</b>	<i>Water Services Code of Conduct (Customer Service Standards) 2013</i>
<b>Minute No:</b>	<b>8.1.4 032017.OM</b>
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**Objective:**

To provide guidance and clarity concerning the receipt and management of complaints.

**Policy:**

This Policy covers both general complaints and vexatious and habitual complaints and identifies situations where a complainant, either individually or as part of a group, or a group of complainants.

It assists in identifying and managing situations where the complainants seek to be disruptive to the Shire through pursuing an unreasonable course of conduct might be considered to be “habitual or vexatious” and ways of responding to these situations.

The Shire is committed to resolving complaints in a timely, fair and equitable manner.

It is important that customers are able to easily lodge a complaint and have the complaint considered by the relevant officer of department.

It is also important that if the customer is not satisfied with the outcome of the complaint that the matter is able to be referred to a higher level for consideration.

The customer should be informed of their rights in this regard.

Complaints will be used to review and make positive changes to the Councils policies and procedures.

This policy covers all aspects of the Shire’s services including water services. It does not relate to complaints that must be legally addressed in another manner such

as the State Administrative Tribunal or under the Whistleblowers Protection legislation. Anonymous complaints are not considered under this policy.

A complaint is defined as a grievance a customer may have against the quality of a service, program or process of the Shire.

It is intended that complaints are resolved within 15 business days from the date the complaint is received.

**Procedure:**

The complaints process is outlined in the following steps

Customers are encouraged to discuss their complaint with the officer of the department which is the subject of the complaint and to attempt to resolve the issue at this level.

If the complaint cannot be resolved at the first point of contact the matter will be reviewed by the Chief Executive Officer and the complainant will be advised of the outcome in writing.

Complainants, particularly those living with a disability, have the right to use an advocate of their choice or an advocate suggested by the Shire in the resolution of their complaint.

The Shire may seek advice from a third party regarding a person's disability such as a disability service provider in the resolution of a complaint.

The advice to the customer in step 2 will include the details of an independent party the matter can be referred to if the matter is still unresolved or the complainant is still not satisfied.

Once the matter has been completed the CEO will review the circumstances of the complaint and make any relevant changes to the Shire's operations to lessen the probability of further complaints.

Where complaints become habitual or vexatious Schedule A –Criteria for Determining Habitual or Vexatious Complaints and Schedule B Options for Dealing with Habitual or Vexatious Complaints Procedures will be implemented

**Independent Parties**

If the matter cannot be resolved to the customer's satisfaction they have the right to refer the matter to one of the following independent parties.

For general complaints-

Further advocacy or advice may be sourced from The Ombudsman Western Australia <http://www.ombudsman.wa.gov.au/>

For water services complaints;-The Energy and Water Ombudsman

<http://www.ombudsman.wa.gov.au/energyandwater/>

For Disability Related Complaints: People with Disabilities WA [www.pwdwa.org.au](http://www.pwdwa.org.au)

## **Schedule A – Criteria for Determining Habitual or Vexatious Complaints**

Complainants (and/or anyone acting on their behalf) may be deemed to be habitual or vexatious where previous or current contact with them shows how they meet one of the following criteria:

Persist in pursuing a complaint where the Shire's complaints process has been fully and properly implemented and exhausted.

Persistently change the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint is being addressed. (Care must be taken, however, not to disregard new issues which are significantly different from the original complaint as they need to be addressed as separate complaints).

Are 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.

Repeatedly do not clearly identify the precise issues 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.

Regularly focus on a trivial matter to an extent which is out of proportion to its significance and continue to focus on this point. It is recognised that determining what a trivial matter is can be subjective and careful judgment will be used in applying this criteria.

Have threatened or used physical violence towards employees at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be discontinued and the complaint will, thereafter, only be continued through written

communication. The Shire has determined that any complainant who threatens or uses actual physical violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Shire is to be made.

Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Shire – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax. Judgment will be used to determine excessive contact taking into account the specific circumstances of each individual case.

Have harassed or been verbally abusive on more than one occasion towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. *Some complainants may have a mental health disability and there is a need to be sensitive in circumstances of that kind.*

Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.

Make unreasonable demands on the Shire and its employees and fail to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Shire's complaints procedure or normal recognised practice.

Make unreasonable complaints which impose a significant burden on the human resources of the Shire and 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;
- Can otherwise fairly be characterised as obsessive or manifestly unreasonable.

Make repetitive complaints and allegations which ignore the replies which Officers have supplied in previous correspondence.

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

## Schedule B –Dealing with Habitual or Vexatious Complainants

Habitual means “done repeatedly or as a habit”. The term vexatious is recognised in law and means “denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant”.

The Shire adopts the following definition for a habitual or vexatious complainant:

*“The repeated and/or obsessive pursuit of:*

*Unreasonable complaints and/or unrealistic outcomes; and/or  
Reasonable complaints in an unreasonable manner.”*

Where complaints continue and have been identified as habitual or vexatious in accordance with the criteria set out Schedule A, the CEO, following discussions with the Senior Management Team, will seek agreement to treat the complainant as a habitual or vexatious complainant and for an appropriate course of action to be taken. The following options are available for dealing with habitual or vexatious complaints. These options 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 (and/or their advocate) setting out responsibilities for the parties involved if the Shire is to continue processing the complaint. If terms are contravened, consideration will then be given to implementing other actions as indicated below.

Decline contact with the complainant in an accessible form, either in person, by telephone, by fax, by letter, by email or any combination of these, provided that one form of contact is maintained. This may also mean that only one named officer will be nominated to maintain contact (and a named deputy in their absence). The complainant will be notified of this in person.

Notify the complainant, in writing, that the Shire has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be notified that the correspondence is at an end, advising the complainant 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 (and/or their advocate) that in extreme circumstances the Shire will 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.

The CEO will notify complainants (and/or their advocate), in writing, of the reasons why their complaint has been treated as habitual or vexatious, and the action that will be taken. *The CEO will also notify the Elected Members that a constituent has been designated as a habitual or vexatious complainant.*

Once a complainant has been determined to be habitual or vexatious, their status will be kept under review *after one year* and monitored by the CEO with reports being taken to Council as required. If a complainant subsequently demonstrates a more reasonable approach, then their status will be reviewed.