

# **Sefton Council**

## **Unreasonably persistent and unacceptable behaviour policy**

*June 2024*

## Summary Sheet

### Document Information

<b>Protective marking</b> (Official/Official-Sensitive-Personal, Official-Sensitive-Commercial, Official-Sensitive Confidential)	Official
<b>Ref</b>	Unreasonably persistent and unacceptable behaviour policy (previously referred to the Vexatious or unfocused complaints policy and procedure v4.0) Policy 5.1
<b>Document purpose</b>	Legal obligations and good practice in Council use in dealing with vexatious and unfocused citizen complaints and those who display unacceptable behaviour.
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<b>Date of next review</b>	Biennial basis as part of Annual Information Governance statement taken to Information Management Group
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<b>Location of original</b> (Owner job title / contact details)	Data Protection Officer – as above
<b>Authorised by</b> (Committee/Council)	Audit & Governance Committee – 19 <sup>th</sup> June 2024 Council approval – 11 July 2024

### Document History

Version	Date	Author	Notes on revisions
1	April 2016	Ben Heal – Data Protection Officer	
2	April 2016	Ben Heal – Data Protection Officer	Incorporation of comments from colleagues
3	May 2016	Ben Heal – Data Protection Officer	Incorporation of comments from colleagues
4	June 2016	Catherine Larkin – Data Protection Officer	Incorporation of comments from colleagues
5	June 2024	Catherine Larkin – Data Protection Officer, David McCullough – Chief Legal and Democratic Officer	Amendment to legislation references, broadening of policy

## Introduction

The purpose of this policy is to explain the actions that the Council will take against individuals deemed to be displaying unreasonable or unacceptable behaviour which can distress our staff and councillors or strain our resources with persistent and unrealistic demands.

This policy describes how Sefton Council applies the Local Government and Social Care Ombudsman and Information Commissioner's guidance on citizens who the Council deem to be displaying unreasonable or unacceptable behaviour.

Where complaints relate to data sharing this document has been prepared in terms of the Council's obligations as a "data controller" under the UK General Data Protection Regulation, Data Protection Act 2018 and the Freedom of Information Act 2000.

The Council is committed to providing everyone it deals with in a respectful, courteous and polite manner. Where an individual raises an issue or complaint with us, they have a right to expect to be dealt with fairly and impartially. They should also receive a response which fully addresses their concerns in a timely manner.

The Council may encounter complainants who act in a vexatious or unfocused way which makes resolution of their complaints or enquiries impossible, while taking up a disproportionate amount of Council resources. As an employer, we have a duty to safeguard the health and wellbeing of our staff. The Council does not expect its staff or its councillors to tolerate abusive, threatening, demeaning or offensive behaviour either verbally or in writing. Similarly, we do not expect our staff to deal with someone who, because of the frequency of their contact, places a strain on time and resources and causes undue stress for staff.

Under section 14 of the Freedom of Information Act 2000 (FOIA 2000), public authorities are not required to respond to freedom of information requests which are vexatious or repeat requests.

Most people exercise their right of access responsibly. However, a few may misuse or abuse FOIA by submitting requests which are intended to be annoying, disruptive or have a disproportionate impact on a public authority. The ICO recognises that dealing with unreasonable requests can strain resources and get in the way of delivering mainstream services or answering legitimate requests. These requests can also damage the reputation of the legislation itself.

Section 14(1) is designed to protect public authorities by allowing you to refuse any requests which have the potential to cause a disproportionate or unjustified level of disruption, irritation or distress.

### Councillors

For the avoidance of doubt, this policy also applies to complaints that Members of the Council have breached its Code of Conduct.

Serving in public office is both a privilege and a responsibility, however, there is a growing issue of abuse and intimidation in public and political discourse that can have a negative impact on councillors, their families and local democracy.

In 2022, the LGA found that seven out of 10 councillors had experienced abuse from the public in the previous year. Further research by the LGA in 2022, reinforced concerns that

abuse in public life and public discourse is becoming normalised and seriously impacting civic life and local democracy.

Sefton Council is a positive reflection of how increasing numbers of women are participating in politics and wider public life, including being elected to public office.

This policy confirms the Council's commitment to taking a zero-tolerance approach to this behaviour and help protect female councillors in Sefton.

The Council also has a dedicated policy for dealing with the online abuse and intimidation of Councillors.

## Principles

The Council recognises that a small minority of individuals cannot work within the Council's usual procedures. Therefore, there needs to be an equitable 'due process' offering equivalent rights to either facilitate resolution of the issues raised or where this is not possible conclude ongoing contact with the complainant over the specific concerns.

There is a consistent need to obtain clarity and focus on complaints and enquiries. This is applicable to both complainant and Council.

The Council has an obligation to protect its staff and resources from the complainant's unjustifiable actions. We expect our staff to be treated with courtesy and respect. We recognise that customers and service users can at times feel under pressure, distressed or feel that they have to be determined to pursue their concerns. They can also feel angry about their situation.

The formalised assessment process is an opportunity to verify that the Council has listened to the complainant and evaluated its options and rationale when responding. It should evidence a review by senior Departmental and Corporate Council managers of the circumstance, context, and sufficiency of communication with the complainant.

The complainant should not be under or over serviced by the Council in regard to the complaint or data access sought.

The approach set out in this guide is based on the clear understanding that:

- All complainants are treated with fairness and respect.
- In the absence of very good reasons to the contrary, all complainants have a right to access public services.
- All complaints are considered on their merits.
- Unreasonable actions from complainants do not preclude there being a valid issue. Someone may have a legitimate complaint but express it unreasonably.
- The substance of a complaint (what is alleged to have gone wrong, and its impact) should dictate the level of resources dedicated to it, not a complainant's demands or actions.
- Anger is an understandable and, to some degree, an acceptable emotion among frustrated complainants as long as it is not expressed through aggression, violence or the use of offensive or discriminatory language.
- Staff and councillor safety and well-being are paramount when dealing with unreasonable complainant conduct.

- The decision to change or restrict a complainant's access to services as a result of their actions will only be made at a service management level. It must also be subject to review.
- Service managers will ensure relevant systems, policies and procedures are in place to manage complaints including making information available to staff on how to respond to unreasonable actions.
- Any decision to restrict actions to services should be proportionate in relation to the impact the unreasonable actions have on the organisation's ability to deliver an efficient service. Any restriction should still allow fair access to mandatory services.

New complaints from people who have come under this policy will be treated on their merits. The Council will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. The council does not support a "blanket policy" of ignoring genuine service requests or complaints where they are founded.

## **Anticipated Outcomes**

A formalised assessment of the issues will be undertaken. This should be overseen by senior managers from the relevant Council Department, the Chief Legal and Democratic Officer, and the Corporate Information Management & Governance Executive Group as appropriate. The findings will be recorded and shared with the complainant.

Sufficient agreement and focus should be created to enable a Council response to the applicant's request.

The Council may eventually decide to protect its resources and staff by refusing to deal with the set of issues raised by the complainant as they can evidence they are unreasonably persistent or their behaviour is unacceptable in nature.

An overview of the process is outlined in Appendix 1.

## **Definitions**

### **Unfocused**

Where the complainant's issues are either too vague, imprecise as to time, place or personnel or constantly shifting as to what is sought to be resolved.

### **Vexatious**

The regulatory bodies – the Local Government and Social Care Ombudsman and the Information Commissioner's Office - have itemised what they consider to be unreasonably persistent and unacceptable behaviour. While not exhaustive the examples below illustrate the variety of behaviours to which the Council will respond to protect its staff and resources:

- Persistent complaining over the same issue. Persistence will be defined as the same or similar complaint made, irrespective of to whom in the Council, on a number of occasions. Persistently seeking an outcome that the Council has already explained is unrealistic for policy, legal or other valid reasons.
- Complaining about or challenging an issue based on a historic and/or irreversible decision or incident.

- Making persistent and unreasonable demands on Council staff after the unreasonableness has been explained. An example would be a complainant who insists on immediate responses or sets the Council unreasonable deadlines.
- Behaviour or language that may cause staff and Councillors to feel seriously stressed, afraid, intimidated, threatened or abused, e.g. the use of language that could be described as foul, offensive, demeaning, inappropriate and/or racist, sexist or homophobic, threats or physical violence, derogatory remarks, rudeness, harassment, inflammatory statements and unsubstantiated allegations;
- Threatening behaviour and harassment of employees and Councillors, whether this is in person or via social media
- Taking a 'scatter-gun' approach to their complaints, for example within the Council or using MPs, elected members, or regulatory bodies.
- Refusing to specify the grounds of their complaint despite offers of assistance.
- Refusing to co-operate with the Council's investigation of the complaint, insisting on their demands being met without such an investigation.
- Refusing to accept that issues are not within the power of the Council to investigate, change or influence. An example would be a problem caused by the private sector rather than the Council.
- Insisting that the complaint be dealt with in ways other than the Council's complaints policy or equivalent. For example, insisting there are no written records made of the complaint.
- Refusing to accept the outcome of the complaint or data access process after the Council's considered final response, repeatedly arguing the point, or denying that this was an adequate response.
- Insisting a minor variation in the original complaint means that it is a 'new' complaint requiring a new Council response.
- Where the complainant can be evidenced to be verbally or physical abusive, threatening or violent in their contact with the Council over the issue.
- Where the complainant keeps shifting the focus of the topic or relevant staff involved with the complaint.
- Where the complainant has been significantly partially or wholly untruthful in their complaint or data access request.
- Is politically motivated - where the complaint is used to bring into question another political party's ethos, to fuel personal political animosities or to solely meet the interests of a particular political party.

The Protection from Harassment Act 1997 indicates that someone's actions amount to harassment when they make the victim feel distressed, humiliated, threatened or fearful of further violence.

This type of behaviour can be exhibited in many different ways, including in person, on the telephone, in written or email correspondence and on social media platforms. When dealing with this kind of behaviour, the Council will take into account the frequency of contact, the content of the contact, the actions we took to resolve the customer's complaint and the level of disruption caused.

If unreasonable behaviour occurs during a telephone conversation, Council staff will explain to the caller why their behaviour is unacceptable. The caller will be given the opportunity to stop the unacceptable behaviour. If the unacceptable behaviour continues, Council staff will inform the caller that they are ending the telephone call and will record the reason for the termination on the appropriate Council system.

## The Council's response to unreasonably persistent or unacceptable behaviours

Once sufficient evidence around seemingly unreasonably persistent or unacceptable behaviour is accrued by the relevant Council team the first step is take the issue, with relevant evidence, to the Corporate Information Management and Governance Executive Group. They will decide if the conditions are met to put in place alternative methods of dealing with the complainant. Which method depends on the severity and longevity of the complainant's actions.

However, should it be determined that the behaviour in question is sufficiently serious enough, the Council withholds the right not to follow the process outlined below and will inform the complainant that it will no longer enter into any dialogue with them. If such action is deemed appropriate in connection with a complaint or complaints that a councillor has breached the Members Code of Conduct, then such a decision is for the Council's Monitoring Officer.

There may also be occasions where the relationship between the Council and unreasonably persistent or vexatious or abusive complainant breaks down completely. This may even be the case while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs the Council will advise the complainant that they may approach the Local Government & Social Care Ombudsman who may be prepared to consider a complaint before the procedure has run its course.

Employees of the Council and Councillors will be guided to retain a comprehensive log of the inappropriate behaviour or harassment. This will include, but is not limited to:

- Telephone logs,
- Copies of emails,
- Copies of written correspondence,
- Screen shots of social media posts,

The Council may ask the complainant to enter into an agreement which provides focus for the complaint and sets expectations for the Council and the complainant.

A template guide for such an agreement can be found at Appendix 2.

Where sufficient evidence already exists Council will send a letter of 'vexatious' status to the complainant. A template guide can be found at Appendix 3.

A failure by the complainant to meet the focusing agreement requirements will lead to the vexatious status statement and be used as evidence of good will and intent by the Council to any subsequent regulator's investigation.

### Focussing and expectation agreement with complainant

An agreement may be drawn up between the individual/complainant and the Council, where possible.

The agreement should recognise that while the complainant has the same complainant rights as any other, there is a need for extra support to gain focus, clarity and structure. If

these cannot be obtained the Council cannot resolve the complaint/s and will therefore not progress the complaint.

A central principle is the complainant should not be under or over serviced by the Council or its workforce.

The component elements of the agreement should be:

- Boundaries of relevant Council staff involvement
- Respective responsibilities of complainant and Council
- Forming realisable expectations with complainant
- Contact and authority structure for complainant
- Time frames, deadlines, key information required, communication methods, and closure steps
- List of options for action
- Mutual goals
- Signatures

### **Boundaries of Council staff involvement**

There will be a single point of contact (SPOC) person for the complainant.

Other organisation staff will keep to their specialist roles but direct all communications relating to the complaint or data request via the SPOC. The SPOC may at times ask any Council staff to contact directly but the principle is that this is mainly the SPOC's decision. If the SPOC becomes unavailable the complainant will be informed of a replacement.

If the complainant complains about the SPOC, they will need to outline and evidence their complaint in writing and send it to a specified senior manager. The senior manager will then communicate with the complainant as to whether they consider the complaint justified to the extent they replace the SPOC.

### **Respective responsibilities of complainant and Council**

The complainant should:

- State their complaint in an organised manner without excessive or extraneous material. They should be signposted to advocacy services to support them to do this if necessary.
- Provide all required information in a timely and complete manner – not in dribs and drabs over time.
- Provide only factual and truthful material.
- Use the SPOC and not bring other organisational staff into responding to their complaint/s
- Refrain from personal remarks, offensive or threatening behaviour.

Council staff should:

- Respond via the SPOC in an accurate and timely and truthful manner.
- Unless agreed with the SPOC redirect all communications relating to the complaint back to the SPOC.
- Offer the complainant the same level of service as any other complainant.



## Forming achievable expectations with complainant

A key function of the SPOC is to clarify what the grounds for complaint are. Without this the complaint response cannot progress.

If the complainant subsequently compounds, confuses, or keeps adding complaints, they will explain this is not acceptable as it presents the Council with a shifting and unclear complaint.

If the complainant has further complaints these may await the outcome of the original complaint as this may answer all subsequent complaints.

It will be explained that:

- All further complaints around the same issue will not be considered until the initial one is completed
- The Council will not respond to a further complaint as this was outlined at the outset of the original complaint.
- It may be appropriate to bring complaints together at a later stage of the process.

## Contact structure for complainant

Communications will be via

- Letter or email
- Phone calls
- In person interviews

The SPOC will be where the complainant is directed to go for ALL complaints – except a complaint about the SPOC. It will be explained while they may attempt to contact others in the organisation, including senior managers, they will only redirect them back to the SPOC.

## Time frames, deadlines, key information required, communication methods and closure steps

The SPOC will outline in written form what these expectations are. They are clearly interdependent. For instance, until key information is acquired from the complainant, time frames and deadlines cannot be established. Given the SPOC may be contacting busy operational sites for information it is important to be realistic to the complainant about time scales. If they complain further about non-response they will be directed to the agreed time scales.

## List of options for action by the Council

The Council may highlight a number of options for action including:

- To refuse to process complaints which are persistent, confused, and / or contain excessive or extraneous material after the Council's attempt to clarify them with complainant.
- Refusing to register and process further complaints about what it perceives as the same matter.
- Placing of limits on the number and duration of contacts per week or month.
- Offer restricted time slot for necessary calls.
- Limiting the complainant to one contact medium – letter, email, and phone.

- Requiring the complainant only contact one member of staff.
- Any personal contact takes place with a staff witness.

In brief, the implementation sequence for any of the above options starts with SPOC liaising with relevant service manager who will write to complainant outlining why their behaviour is of concern and what actions will follow if it does not cease.

Restrictions will be proportionate and appropriate and recognise individual circumstances and inform the complainant of their right to refer to the Ombudsman or the Information Commissioner.

If progress is impeded by the complainant's actions the matter will be returned to the Corporate Information Management and Governance Executive Group for decision whether to escalate to Vexatious status.

### **Mutual goals (mutual where possible with the complainant)**

Where possible the Council is keen that the above are mutual goals and principles shared between the complainant and the Council. It is the obligation of the complainant to state briefly and clearly what they cannot agree with and why. The Council will decide if they can modify it accordingly.

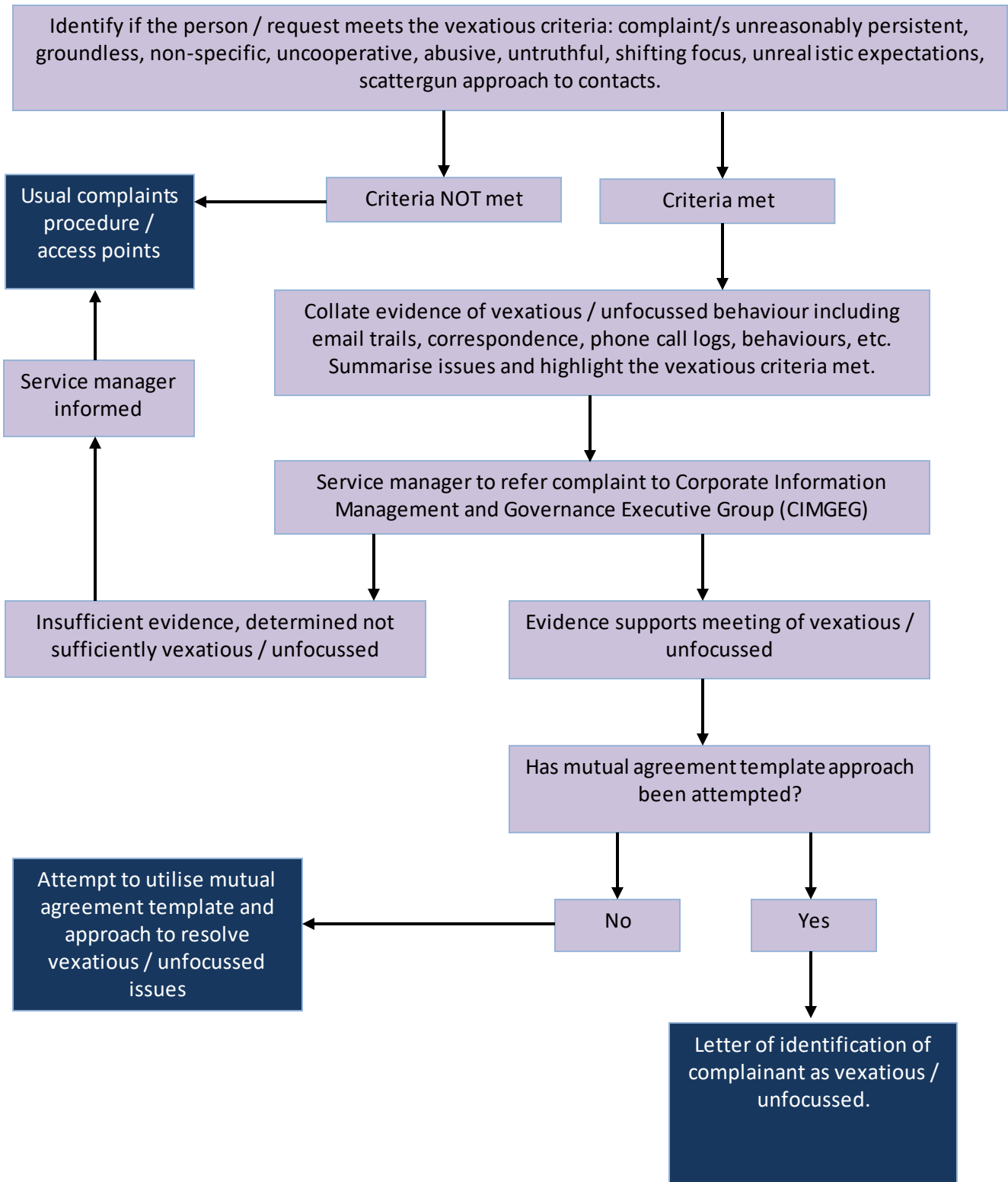
The agreement and any complainant response to it will potentially be shared with any regulator such as the Ombudsman, Information Commissioner's Office and professional body to whom the complainant may turn. It should provide evidence of Council goodwill and openness while requesting structure and clarity from the complainant.

### **Signatures to agreement**

These will be sought where possible. If the complainant refuses to sign, it will be recorded for evidence to any regulatory body that they were offered the opportunity. It is acceptable for them to verbally agree to the agreement and the Council record such agreement.

# Appendix 1

**Background/Purpose**  
To ensure proportionate and appropriate response to citizen complaints when seemingly unfocused or compromising Council staff or resources.



## Appendix 2 – Mutual Agreement Template

If it is decided that it might be possible for the complainant and Council to come to mutual agreement over a set of agreed components relating to their complaints/enquiries the following covering letter and agreement template should be used. The sections are described in more detail above. The following recognises while the complainant has the same complainant rights as any other, there is a need for extra support to gain focus, clarity and structure.

### **Covering letter to accompany Mutual Agreement Template**

#### **Re: Your Contact With Sefton MBC**

I write with reference to your complaints to the Council/requests for information under the DPA /FOIA as detailed below:

- XXXX e.g email of 6 June 2016 addressed to XXX
- XXXX email of 10 June 2016 addressed to YYYY
- XXX
- XXXX

Your contact with the Council has been considered in line with the Council's policy on 'unreasonably persistent and unacceptable behaviour' and to assist in resolving your complaints / requests, the Council consider it appropriate to enter into an agreement with you on how your contact with the Council will be managed in the future.

Please find enclosed a draft agreement for your consideration and if you are happy with the contents I shall be very grateful if you could sign a copy and return it to me at your earliest convenience. Alternatively, you could confirm your agreement via email to:

[xxxxxxxxxxxxx@sefton.gov.uk](mailto:xxxxxxxxxxxxx@sefton.gov.uk).

I trust you will view this as a positive development in your relationship with the Council which is advanced as a way in which your complaint / request can be appropriately resolved.

Yours sincerely

### **Mutual Agreement Template**

#### **Boundaries of Council staff involvement**

The Council and complainant agree to work through a single point of contact in order to ensure consistency and appropriateness of contact.

Single Point of Contact Details

*Add in contact details ...*

*Job title*

*Contact details*

*E-mail*

*Phone No*

*Address*

Person to contact if you wish to complain about the single point of contact.

*Add in contact details ...*

*Job title*

*Contact details*

*E-mail*

*Phone No*

*Address*

## **Respective responsibilities of complainant and Council**

*Adjust the following to include complainant name and add / remove any criteria as necessary.*

*Complainant agrees to:*

- *State my complaint in an organised manner without excessive or extraneous material*
- *Provide all required information in a timely and complete manner – not in dribs and drabs over time*
- *Provide only factual and truthful material*
- *Use the single point of contact and not contact other organisational staff regarding my complaint/s*
- *Refrain from personal remarks, offensive or threatening behaviour*

*The Council agrees to:*

- *Respond via the single point of contact in an accurate, timely, and truthful manner*
- *Unless agreed with the single point of contact, redirect all communications from the complainant back to the single point of contact.*
- *Offer the complainant the same level of service as any other complainant.*

## **Forming achievable expectations**

*Use this section to clarify what the complainant's key issues are and identify the grounds for the complaint.*

*The primary complaint is:*

## **Contact structure for complainant**

*Outline the expected way that contact with the single point of contact will be made (letter, email, phone, in person, etc.)*

*Contact structure*

## **Time frames, deadlines, key information required, communication methods and closure steps**

*Complete specific details relating to these areas that are realistic and specific. Particular effort should be made to closure steps and definition of when the complaint will be considered to be closed and no further action will be taken. These elements should be clear and unambiguous.*

## **List of options for action**

*Where appropriate agree limitations to the actions to be taken by both parties when dealing with the complaint. These could include but are not limited to:*

- To refuse to process complaints which are persistent confused and contain excessive or extraneous material after the agencies initial attempt to clarify them with complainant.*
- Refusing to register and process further complaints about what it perceives as the same matter.*
- Placing of limits on the number and duration of contacts per week or month.*
- Offer restricted time slot for necessary calls.*
- Limiting the complainant to one contact medium – letter, email, and phone.*
- Any personal contact takes place with a staff witness.*

## **Mutual goals**

Where possible the Council are keen that the above are mutual goals and principles shared between the complainant and the Council. It is the obligation of the complainant to briefly and clearly state what they cannot agree with and why and the Council will decide if they can modify it accordingly.

The agreement and any complainant response to it will potentially be shared with any Council regulator such as the Ombudsman, Information Commissioner's Office and professional body to whom the complainant may turn. It should provide evidence of Council goodwill and openness while requesting structure and clarity from the complainant.

## **Signatures to agreement**

	<b>Signature</b>	<b>Date</b>
<i>Complainant/s</i>	_____	_____
<i>Sefton Council Representative</i>	_____	_____

## Appendix 3 – Vexatious Status Letter

Template for letter of vexatious status to complainant

### Re: Your Contact With Sefton MBC

I write in connection with your recent communications with Sefton Council which I consider to be vexatious. I will detail the action that we will take as a consequence of that decision.

I have reviewed the considerable amount / nature of communications and have summarised events in the attached document.

It is my decision that you should now be considered a vexatious complainant for the following reasons:

- You have made groundless complaints and claims against the Council and its officers
- You have made an unreasonable amount of contacts with the Council in relation to matters which have their origin in events of XXXXX
- You make the same complaints repeatedly
- You continually raise subsidiary issues / complaints
- Your complaints are often vague, not backed by evidence and / or difficult to comprehend
- You contact many officers within the Council
- You refuse to accept the outcome of the complaints process
- You refuse to accept documentary evidence
- Your repeated contacts with Council officers is placing unreasonable demands on staff time and resources
- You have threatened legal proceedings against the Council on a number of occasions but we have not been served with any court papers
- Your communication has included use of threats, intimidation or violence
- Your communication has included use of abusive, offensive or discriminatory language
- Your communication has caused officers or councillors to feel harassed.

Please note that in future Sefton Council will not reply to or acknowledge any further contact from you on any matter directly or indirectly related to the matters described above.

When making this decision I have considered the *Local Government Ombudsman's Guidance note on management of unreasonable complaint behaviour* and I consider this to be a just and proportionate response.

However, if you submit any further complaints not related directly or indirectly to matters referred to above those complaints will be considered on their merits according to the appropriate process.

*Signed by relevant Senior Manager*

## Appendix 4

Background information from the Information Commissioner's Office and Local Government Ombudsman relating to vexatious requests.

### **Information Commissioner's Office**

[What does section 14\(1\) of FOIA say? | ICO](#)

### **Local Government Ombudsman**

[Managing unreasonable actions by complainants: A guide for organisations - Local Government and Social Care Ombudsman](#)