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To:
The Chairman and Members of the Standards
Committee
All other Members of the Council – for information

Your Ref:
Our Ref: HM/L.3.13
Contact: Helen McAleer
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Date 14 November 2011

Dear Sir/Madam,

STANDARDS COMMITTEE - TUESDAY 22 NOVEMBER 2011

I refer to the agenda for the above-mentioned meeting and enclose the following item:

| Item No | Report Title | Page Nos |
|---------|---|----------|
| 9. | Vexatious and Habitual Correspondents Policy To consider a Policy to deal with vexatious and habitual correspondents. | 19 - 25 |

Yours faithfully

Helen McAleer

Senior Committee Officer

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Habitual or Vexatious Complainants/Correspondents Guidance Note

1.0 Introduction

- 1.1 A Public Authority such as Breckland Council, with regulatory and control functions, will, as a natural part of its business, have to deal with people who disagree with our decisions, often expressing that disagreement persistently and strongly. Lobbying for a particular point of view is an established and essential part of the democratic process. This guidance note is not intended to curtail activities of that kind in any way.
- 1.2 Another consequence of being a Public Authority is that we are expected to respond to all communications received. However, there are cases, where the requests for explanations or information become unreasonable and often repetitious. There may also be a refusal to accept that this Council has either no power or duty to deal with the particular matter. Dealing with matters of this type can take up a great deal of officer time and there must come a point where more time cannot be justified as it will have the effect of preventing other legitimate matters being dealt with.
- 1.3 This guidance note identifies situations where a complainant/correspondent, either individually or part of a group, or a group of complainants/correspondents, might be considered to be “habitual or vexatious” and ways of responding to these situations.
- 1.4 In this guidance note the term 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”. This guidance note is intended to assist in identifying

and managing persons who seek to be disruptive to the Council through pursuing an unreasonable course of contact.

2.0 **Criteria for determining habitual or vexatious complainant/correspondents**

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

Where the complainant/correspondent:

- 2.1 Persists in pursuing a complaint/matter where the Council's process has been fully and properly implemented and exhausted.
- 2.2 Persistently change the substance of a complaint/matter or continually raise new issues or seek to prolong contact by continually raising further concerns or questions whilst the complaint/matter is being addressed. Care must be taken, however, not to disregard new issues which are significantly different from the original complaint/matter as these will need to be addressed separately.
- 2.3 Are repeatedly unwilling to accept document evidence given to them 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.
- 2.4 Repeatedly do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts of the Council to help them specify their

concerns, and/or where the concerns identified are not within the remit of the Council to investigate.

- 2.5 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 judgement will be used in applying this criteria.
- 2.6 Have threatened or used physical violence towards employees or members at any time. This will, in itself, cause personal contact with the complainant/correspondent and/or their representative to be discontinued and the complaint/matter will, thereafter, only be continued through written communication.
- 2.7 Have, in the course of addressing a registered complaint/matter, had an excessive number of contacts with the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, e-mail or fax. Judgement will be used to determine excessive contact taking into account the specific circumstances of each individual case.
- 2.8 Have harassed or been abusive verbally or in writing on more than one occasion towards employees or members dealing with the complaint/matter. This is particularly serious where the abuse is aimed personally. Employees recognise that complainants/correspondents may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. Some complainants/correspondents may have a mental health disability and there is a need to be sensitive in circumstances of this kind.

- 2.9 Are known to have recorded meetings or face to face/telephone conversations without the prior knowledge and consent of other parties involved.
- 2.10 Make unreasonable demands on the Council and its employees and fail to accept that these may be unreasonable: for example, insisting on responses to complaints/matters or enquiries being provided more urgently than is reasonable or within the Council's normal recognised practice.
- 2.11 Make unreasonable complaints/matters which impose a significant burden on the Council and where the complaint/matter:
- clearly does not have any serious purpose or value; or
 - is designed to cause disruption or annoyance; or
 - has the effect of harassing the Council; or
 - can otherwise be characterised as obsessive or manifestly unreasonable.
- 2.12 Have persisted in requesting requested information where the Council is precluded from responding to a request for legal reasons, e.g. the matter is the subject of a claim by or against the Council and that has been explained.

3.0 **Actions for dealing with habitual or vexatious complainants/correspondents**

- 3.1 Where a member of staff feels one or more of the criteria in 2. above are met, then they should discuss the matter with their Line Manager and/or Service Manager. The Service Manager should send a letter to the complainant/correspondent notifying them that the Council has fully responded to their correspondence and there is nothing more to add and continuing to correspond on the matter will serve no useful purpose. The Line Manager/Service Manager must have satisfied themselves that

the officer dealing with the matter has responded fully to all the points raised by the complainant/correspondent. See Appendix A for an example letter.

- 3.2 Should the complainant/correspondent continue to contact the Council then the matter should be referred to the appropriate Director/Assistant Director for a decision on what further action to take and, if appropriate, the matter should be discussed at a Corporate Management Team meeting or referred to the Monitoring Officer or Standards Officer.
- 3.3 Once a decision has been made by the Director, Corporate Management Team or Monitoring Officer, the complainant/correspondent should be notified by letter. The letter should indicate that the Council cannot justify further time and expense involved in dealing with the matter(s) which they continue to raise and that no further action will be taken on them. The complainant/correspondent could also be notified that the correspondence on the particular matter is at an end; they could be told that they are being treated as habitual or vexatious, and as such the Council does not intend to engage in further correspondence on the matter. In suitable cases, it could also be indicated to the complainant/correspondent that future contact with the Council will only be acceptable via one medium – i.e. letter, telephone, e-mail, fax, in person, and that a nominated person in the Council will be deal them. In extreme cases, it could be reasonable to indicate that no further contact on the subject will be entertained from the complainant for a period, say 3 months or more.
- 3.4 All Service Managers in the Council will be notified of the decision taken to ensure a consistent approach is taken by the Council.

Appendix A [To be modified as appropriate]

Dear

Thank you for your letter of

I write to inform you that I have decided that the Council cannot justify the time and expense in corresponding further regarding *[set out the relevant matters]*. The matters you raise have already been fully dealt with in the letter(s) dated , [copies of which I enclose]. The point has been reached when further work on these matters will have an adverse effect on the service offered to others who have a legitimate claim on officers' time.

I should make it clear that this in no way restricts your right to approach any other external body in relation to these matters. Nor does it preclude you from raising other matters with the Council at this or any other time.

Yours sincerely,

Service Manager

Appendix B [To be modified as appropriate]

Dear

Thank you for your letter of

As *[Service Manager's name]* informed you in his/her letter of , a copy of which I enclose, I am writing to advise you that the Council cannot justify the time and expense involved in corresponding further regarding the matters you have raised.

The Council has made the decision that correspondence on the particular matter is at an end and you are being treated as a habitual/vexatious complainant/correspondent.

Any further contact with the Council will only be by *[letter, e-mail, fax, telephone, in person]* and your contact within the Council will be *[name of nominated person]*.

I therefore acknowledge your letter but intend to take no further action in respect of it.

Yours sincerely,

Director