

FAREHAM

BOROUGH COUNCIL

Report to the Executive for Decision 04 February 2019

Portfolio:	Policy and Resources
Subject:	Unreasonable Complaint Behaviour Policy
Report of:	Head of Leisure and Corporate Services
Corporate Priorities:	Dynamic, prudent and progressive Council

Purpose:

This report provides details of a proposed policy for dealing with unreasonable complaint behaviour.

Executive summary:

The Council receives a large number of customer enquiries, with most being dealt with quickly and effectively and with a positive outcome for the customer. Occasionally, however, a customer may be dissatisfied with our response or the outcome to their enquiry, at which point they can escalate their complaint using the Council's corporate complaints procedure. A copy of this procedure is attached as Appendix A to this report.

The Council's complaints procedure explains how customers can make a complaint and the procedure that will be followed. At stage one of the complaint procedure, the Head of Service in the department responsible for the service will investigate the complaint. If the complainant is unhappy with the response, the complaint can be escalated to stage two of the process, where the Director of the department responsible for the service will review the complaint.

If the customer remains unhappy with the stage two response, they can ask the Local Government and Social Care Ombudsman (LGSCO) for an independent review.

Whilst the Council is committed to dealing with all complaints fairly, on occasion, our employees may have to deal with unreasonable, persistent or vexatious behaviour from our customers.

The LGSCO provides guidance notes to help local authorities and other bodies within their jurisdiction develop a proportionate approach when responding to unreasonable complaint behaviour, based on their view of good practice in dealing with these complainants.

The LGSCO provides the following definition of unreasonable complaint behaviour:

Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contact with an organisation, hinder the organisation's consideration of their, or other people's complaints.

As well as taking up a lot of officer time, on occasion, the behaviour of the complainant may be rude, derogatory, sarcastic or threatening. Whilst this type of behaviour happens rarely, a policy has been produced using the LGSCO's definition of unreasonable complaint behaviour together with their guidance. This policy will ensure that the Council's customers, employees and Councillors understand how the Council will deal with complaints of this nature.

Recommendation/Recommended Option:

It is recommended that the Executive adopts the Unreasonable Complaint Behaviour Policy, as set out in Appendix B to this report.

Reason:

The Council does not currently have a policy for dealing with unreasonable complaint behaviour. The adoption of this policy will help deal with complaints of this nature, whilst also protecting the wellbeing of the Council's employees.

Cost of proposals:

None

Appendices: A: Corporate Complaints Policy
B: Unreasonable Complaint Behaviour Policy

Background papers: None

Reference papers: Local Government and Social Care Ombudsman guidance

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Executive Briefing Paper

Date:	04 February 2019
Subject:	Unreasonable Complaint Behaviour Policy
Briefing by:	Head of Leisure and Corporate Services
Portfolio:	Policy and Resources

INTRODUCTION

1. The Council is committed to providing high quality service at all times and deals with a large number of customer enquiries on a daily basis.
2. The majority of customer enquiries are dealt with first time, quickly and effectively and with a positive outcome for the customer. There are times, however, where a customer is dissatisfied with the response to their enquiry, at which point they can escalate their complaint using the Council's corporate complaints procedure.
3. The complaints policy consists of a two-stage process, at the end of which both a Head of Service and Director will have investigated and reviewed the complaint.
4. If the customer remains unhappy with the stage two response, they can ask the Local Government and Social Care Ombudsman (LGSCO) for an independent review.
5. In a minority of cases, customers pursue their complaints in a way that is unreasonable. This may include unacceptable behaviour or being unreasonably persistent in their contact. This can impede the investigation of theirs, and others, complaints and can result in significant resource issues. These actions may occur whilst the complaint is being investigated, or once the complaint investigation is complete.
6. The LGSCO provides guidance on managing unreasonable complaint behaviour to enable local authorities to produce their own policies.

COMPLAINTS POLICY

7. The Council's complaints policy provides an overview of the complaints process, including how customers can complain and how their complaint will be investigated. The Council will investigate every complaint and aims to resolve complaints within three weeks. The policy can be found at Appendix A.
8. There are two stages to the complaints procedure:

- Stage 1 – at the first stage the Head of Service in the department responsible for the service will investigate the complaint.
 - Stage 2 – if the complainant is unhappy with the stage one response, the Director of the Department responsible for the service will review the complaint.
9. Whilst the complaint is being investigated, the complainant is kept up to date until a resolution letter is provided. If the complaint is complex, it may take more than three weeks to resolve, however the customer will be informed if this is the case.
10. If a customer remains dissatisfied with the Council's stage 2 response, they can ask the Local Government and Social Care Ombudsman for an independent review.

LOCAL GOVERNMENT AND SOCIAL CARE OMBUDSMAN COMPLAINTS

11. The Local Government and Social Care Ombudsman (LGSCO) is the final stage for complaints about councils and adult social care providers. This is a free service and complaints are investigated in a fair and independent way.
12. Before making a complaint to the Ombudsman, the complainant will be expected to have already complained to the Council, with their complaint completing all stages of the Council's complaints procedure. The Ombudsman may also investigate if a complainant has not received a response from the Council within a reasonable time (usually 12 weeks).
13. The LGSCO will assess whether they can, and should, investigate. If they do investigate, they may ask both the complainant and the Council for further information, to ensure they have sufficient details to allow them to make a fair decision.
14. The LGSCO will make a final decision, which may include the following:
- Uphold the complaint and recommend how the Council should put things right;
 - Uphold the complaint but not make any recommendations because the Council may have put things right by the time the LGSCO decide the complaint;
 - Not uphold the complaint;
 - Advise the complainant that they cannot or will not investigate the complaint.
15. The number of complaints/enquiries the LGSCO has received about Fareham Borough Council over the last five years can be found as follows, together with whether any complaints were upheld:
- 2017/2018 – 10 x complaints/enquiries received, none upheld
 - 2016/2017 - 8 x complaints/enquiries received, none upheld
 - 2015/2016 - 9 x complaints/enquiries received, none upheld
 - 2014/2015 - 8 x complaints/enquiries received, 1 x upheld
 - 2013/2014 – 11 x complaints/enquiries received, none upheld.
16. These figures show that the number of complainant's who go on to report their

complaint to the LGSCO following the council's investigation is relatively low. Of those that are reported to the Ombudsman, there are very few where the Ombudsman has found fault with the way the Council has handled a complaint.

HOUSING OMBUDSMAN SERVICE COMPLAINTS

17. In addition to the Local Government and Social Care Ombudsman, there is also a Housing Ombudsman Service. The Housing Ombudsman is a free, independent and impartial service, which resolves disputes involving tenants and leaseholders of social landlords, which includes housing associations and local authorities, as well as private landlords and letting agents.
18. The Housing Ombudsman Service, like the LGSCO, does not usually accept complaints for formal consideration until all stages of the landlord's complaints procedure has been completed.
19. Over the last five years, the Housing Ombudsman Service has received three complaints about Fareham Borough Council. Of these, two were not investigated by the Housing Ombudsman, as they had not gone through the Council's complaints procedure. The final one was investigated, and the complaint was upheld with recommendations on how the Council should put things right.

UNREASONABLE COMPLAINT BEHAVIOUR

20. The Council has a robust Complaints Policy and complainant's have the right to refer their complaint to the Local Government and Social Care Ombudsman or the Housing Ombudsman Service if they are dissatisfied with the response at the end of the process.
21. Whilst the Council is committed to dealing with all complaints fairly, on occasion, Council employees may have to deal with unreasonable, persistent or vexatious behaviour from our customers.
22. The Council does not, however, currently have a policy for dealing with unreasonable complaint behaviour.
23. The LGSCO provides guidance notes to help local authorities and other bodies within their jurisdiction develop a proportionate approach when responding to unreasonable complaint behaviour, based on their view of good practice in dealing with these complainants.
24. The Council has adopted the LGSCO's description of an unreasonably persistent or vexatious customer as follows: *Unreasonable and unreasonably persistent complainants are 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.*
25. Using the LGSCO's guidance, the Council has produced an Unreasonable Complaint Behaviour Policy, which can be found as Appendix B.
26. Examples of what would be considered unreasonable complaint behaviour are included in the policy document, and, amongst others, includes the examples below:
 - Refusing to co-operate with the complaints investigation process or insisting the complaint is dealt with in ways which are incompatible with the Council's complaints process;

- Making unjustified complaints about staff who are trying to deal with the issues;
- Raising many detailed but unimportant questions and insisting they are all answered;
- Making excessive demands on the time and resources of staff with lengthy telephone calls, emails to numerous Council employees, or detailed letters every few days, and expecting an immediate response;
- Refusing to accept the decision and repeatedly arguing points with no new evidence.

27. The policy details action that should be considered where it is identified that a customer has become, or is becoming, unreasonable with their contact with the Council. Some of the actions that could be considered are:

- Placing limits on the number and duration of contacts with staff per week or month and/or offering a restricted time slot for necessary telephone calls;
- Limiting the customer to one method of contact;
- Requiring the customer to communicate with one named officer only.
- Prohibiting the customer from visiting the Council's Civic Offices, except by prior appointment.

CONCLUSION

28. The proposed policy document, attached as Appendix B, is submitted to the Executive for approval. The policy takes into account the Council's complaints policy and guidance provided by the Local Government and Social Care Ombudsman.

Enquiries:

For further information on this report please contact Lindsey Ansell (Ext 4567).