

# FAREHAM

## BOROUGH COUNCIL

### Report to the Executive for Decision 05 July 2021

<b>Portfolio:</b>	Policy and Resources
<b>Subject:</b>	<b>Complaints Policy and Unreasonable Complaint Behaviour Policy Updates</b>
<b>Report of:</b>	Director of Leisure and Community
<b>Corporate Priorities:</b>	Dynamic, prudent and progressive Council

**Purpose:**

This report provides details of a proposed updating of the Complaints Policy and the Unreasonable Complaint Behaviour Policy.

**Executive summary:**

The Council receives a large number of customer enquiries, with most being dealt with quickly and effectively with a positive outcome for the customer. Occasionally, 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.

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 responsible for the department will investigate the complaint. If the customer 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.

A redrafted Complaints Policy has been produced for approval which has been updated to increase the clarity around the role of the Director at stage two. The Director's role is to review the procedures and processes which were followed at stage one and confirm that they comply with the policy, not to carry out another complaint investigation as the Head of Service would have done at Stage one.

The redrafted Complaint's Policy also sets out the steps which need to be taken should an Elected Member receive a formal 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 to develop a proportionate approach when responding to unreasonable complaint behaviour, based on their view of good practice in dealing with these customers.

As well as taking up a lot of officer time, on occasion, the behaviour of the customer may be rude, derogatory, sarcastic or threatening.

The Unreasonable Complaint Behaviour Policy was introduced approximately 2 years ago. The underlying aim of this policy was to ensure resources are used fairly, and to protect officers.

When the effectiveness of the current policy was reviewed, it was identified that it may not always be able to achieve its aims.

A re-drafted policy has been produced for approval. The main changes allow the Director of the service area to review existing limitations applied under this policy, if it is deemed that they are not effectively minimising the impact on officer time and resources. It also introduces the ability to terminate contact and end the investigation if the customer fails to adhere to the limitations within it. Additionally, the proposed changes allow the Director to reduce the imposed limitations if they are subsequently believed to be too harsh. This flexibility will help protect the council, whilst also ensuring proportionate action is taken.

**Recommendation/Recommended Option:**

It is recommended that the Executive adopts:

- (a) the updated Complaints Policy as set out in Appendix A to this report; and
- (b) the updated Unreasonable Complaint Behaviour Policy, as set out in Appendix B to this report.

**Reason:**

The Council identified that the role of the Director was not clear in the existing Complaints Policy.

The Council identified that the existing Unreasonable Complaints Behaviour policy may not always prevent the impact of repeated complaints, even if the customer adhered to the imposed restrictions.

The adoption of these policies will help deal with complaints of this nature, protect the wellbeing of the Council's employees, ensure resources are directed where they are needed and reduce the risk of disproportionate restrictions being imposed upon customers.

**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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## BOROUGH COUNCIL

### Executive Briefing Paper

<b>Date:</b>	05 July 2021
<b>Subject:</b>	Complaints Policy and Unreasonable Complaint Behaviour Policy Updates
<b>Briefing by:</b>	Director of Leisure and Community
<b>Portfolio:</b>	Policy and Resources

#### INTRODUCTION

1. This report presents the results of a review into the Complaints Policy and the Unreasonable Complaint Behaviour Policy and proposes a limited number of changes designed to improve the effectiveness of the policies in achieving their goals, whilst ensuring a proportionate and fair response to the customer.

#### BACKGROUND

2. 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.
3. 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.
4. 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 and provided a response to the customer.
5. If the customer remains unhappy following the stage two response, they can ask the Local Government and Social Care Ombudsman (LGSCO) for an independent review.
6. 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 their complaint, other complaints and can result in significant resource issues. These actions may occur both whilst the complaint is being investigated, and when the complaint investigation is complete.
7. The LGSCO provides guidance on managing unreasonable complaint behaviour to enable local authorities to produce their own policies.
8. The Council's existing Unreasonable Complaint Behaviour Policy requires the Head of Service and Director to agree limitations that remain in place for six months.

9. The Head of Service is responsible for communicating with the customer, informing them of the Council's concerns and to advise that should the behaviour continue, restrictions may be applied.
10. There is no mechanism to change the measures prior to the review date should the initial measures prove to be too harsh or not effective.
11. This means that the officers could still be exposed to unpleasant behaviour or onerous workloads. Conversely, if the limitations are deemed too strict, there is no mechanism to reduce, lessen or even stop them for the customer.
12. A further issue identified by this review, was that the original complaint would have been addressed by the Head of Service at Stage 1, and the Director at Stage 2 of the Council's Complaints Policy. An unreasonable complaint is currently dealt with by the Head of Service.
13. Although the Director will also have been involved at the Stage 2 point of the Council's Complaints Policy, it is likely given the nature of the complaint which requires the Unreasonable Complaint Behaviour Policy to be used, that the Head of Service will have been involved significantly with the customer and may be implicated in the complaint.

### **COMPLAINTS POLICY**

14. 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.
15. 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 customer is unhappy with the stage one response, the Director of the Department responsible for the service will review procedures followed in handling the complaint, to confirm that The Council's policy was adhered to.
16. The wording in the existing Complaints Policy could be misinterpreted and lead to an expectation that the Director has a responsibility to investigate and review the complaint, rather than reviewing the procedures which were followed.
17. It also does not give any guidance on the steps to be taken if an Elected Member receives a Formal Complaint. No separate policy covering this eventuality is believed to exist.
18. 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. This service is free.
19. There have been 67 complaints about Fareham Borough Council to the Local Government and Social Care Ombudsman in the last seven years. Only one has been upheld in 2014/15.

20. 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, including housing associations and local authorities, as well as private landlords and letting agents.

21. There have been 6 complaints about Fareham Borough Council to the Housing Ombudsman in the last six years. Three were upheld and recommendations actioned accordingly.

22. It is proposed that:

- The policy is updated to remove the risk of ambiguity about the role of the Director.
- The policy is updated to set out the process to be followed should an Elected Member receive a formal complaint.

23. The re-drafted policy makes it clear that the Director is responsible for confirming that the Council's policy and procedures were followed at stage one. It also sets out the steps to be taken if an Elected Member receives a complaint. The re-drafted policy can be found as Appendix A.

#### **UNREASONABLE COMPLAINT BEHAVIOUR POLICY: PROPOSED CHANGES**

24. The Council has a robust Complaints Policy and customers have the right to refer their complaint to the LGSCO for independent review if not satisfied.

25. 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 customers.

26. The Council introduced a policy for dealing with unreasonable complaint behaviour which was approved by the Executive on 4<sup>th</sup> February 2019

27. The aims of this policy are to ensure that resources are used correctly, to protect officers and treat customers fairly.

28. Since its introduction, this policy has been used just once.

29. It is understood that there have been a few occasions where a customer was advised that the Unreasonable Complaint Behaviour Policy would be used if they did not cease their unreasonable behaviour, and the warning letter was sufficient to achieve the desired behaviour change.

30. To ensure that we continue to provide best service, a review of this policy and its impact was carried out. It was identified that this policy may not always be able to achieve its aims.

31. It is proposed that:

- The Director becomes responsible for receiving an Unreasonable Complaint referral and communicating with the customer.
- The Director has the right to review the limitations more frequently than 6-monthly.

- A mechanism is introduced which enables The Council to terminate contact with the customer and end the complaint investigation, should the customer fail to adhere to the limitations specified. This is in keeping with LGSCO guidance.
- A mechanism is introduced to ensure that complaints from the same customer about unrelated issues are still considered and addressed on their own merits.

32. These changes are beneficial for both the customer and the Council.

33. The restrictions will not be imposed by someone with whom the customer has already been communicating (namely the Head of Service). 34.

34. The Director can assess the situation without the risk of reaching a decision influenced by emotion. This change would fit with best practice.

35. It is also in-keeping with the Council's Complaints Policy, as a Stage 2 complaint is dealt with by the Director of the service.

36. The re-drafted policy addresses these areas, whilst still remaining compliant with best practice as per LGSCO guidance, and can be found as Appendix B.

## **CONCLUSION**

37. The proposed re-drafted policy documents, attached as Appendix A and Appendix B, are submitted to the Executive for approval. These policies take into account guidance provided by the LGSCO.

### **Enquiries:**

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