

SOUTH HOLLAND DISTRICT COUNCIL

Report of: Portfolio holder for Governance and Customer

To: Cabinet – 21 November 2017

(Author: Sarah Wolstenholme-Smy – Legal Services Manager)

Subject Unreasonably Persistent Complaints and Customer Behaviour and Vexatious Requests

Purpose: To consider the draft Policy for dealing with Unreasonably Persistent Complaints and Customer Behaviour and Vexatious Requests

Recommendation(s):

That the proposed Policy at Appendix A be approved

1.0 BACKGROUND

- 1.1 The Council does not currently have a policy or a procedure to deal with unreasonable customer behaviour and complaints and vexatious requests. Very often an historic complainer will also make frequent FOI requests as part of the complaint.
- 1.2 The Policy deals with unreasonable customer behaviour generally, unreasonable customer complaints relating for example to service issues or standards complaints about elected members and finally it covers vexatious requests.
- 1.3 The purpose of the document is to define unreasonable customer behaviour, explain what we consider to be unreasonably persistent complaints and how we will deal with them, and define vexatious requests and how we will deal with these.
- 1.4 Both the Local Government and Social Care Ombudsman and Information Commissioner have issued guidance on dealing with matters contained in this Policy and this Policy incorporates that guidance. There is no statutory duty to respond to complaints but there is a statutory duty to respond to requests for information under the Freedom of Information Act 2000 and Environment Information Regulations. However there is also provision to refuse a request under Section 14(1) Freedom of Information Act 2000 by considering it a vexatious request.
- 1.5 A flowchart has been prepared to support the Policy and is attached at Appendix B.
- 1.6 Only a small handful of complainants would come within this proposed policy. Examples might include repeated complaints on an issue where the matter has already been through our internal complaints process and the Ombudsman without any finding of fault; or where a complainant refuses to provide evidence/information that is reasonably requested, but continues to send repetitive complaints and chasing emails/letters about that specific issue.

- 1.7 The draft policy was considered by the Policy Development Panel at its meeting on 3 October 2017. The Panel supported the proposed policy subject to a minor amendment to the wording of section three and the Panel also suggested that any use of the policy be reported back to the Panel on a quarterly basis.

2.0 **OPTIONS**

- 2.1 To approve the draft Policy for dealing with Unreasonably Persistent Complaints and Customer Behaviour and Vexatious Requests.
- 2.2 To approve the draft Policy subject to amendments.
- 2.3 Not to adopt a policy and procedures. This option is not recommended as such issues will have to be dealt with in an ad-hoc manner.

3.0 **REASONS FOR RECOMMENDATION(S)**

- 3.1 The Local Government and Social Care Ombudsman recommends having a policy to ensure that complaints and customers are dealt with in an open, fair and proportionate way. Having a policy will help officers to understand clearly what is expected of them, what options for action are available and who can authorise these actions. It can also be shared with customers, help manage their expectations, and explain that certain behaviours should not be tolerated.
- 3.2 We must always bear in mind our underlying commitment to transparency and openness. The guidance recommends that a customer should be given an opportunity to moderate their behaviour and in particular with persistent complaints any actions should be proportionate to the nature and frequency of the complainant's current contacts.

4.0 **EXPECTED BENEFITS**

- 4.1 The Policy will reduce officer time in dealing with unreasonable customers and vexatious requests.
- 4.2 It will give officers the peace of mind that action can be taken to tackle unreasonable behaviour.
- 4.3 It will provide clarity and consistency in dealing with such customers/requests for information.
- 4.4 Finally, it will assist in defending any complaints made to the Local Government and Social Care Ombudsman and the Information Commissioner.

5.0 **IMPLICATIONS**

5.1 **Carbon Footprint / Environmental Issues**

- 5.1.1 None

5.2 **Constitutional & Legal**

5.2.1 The adoption of the Policy is deemed to be best practice and will assist in complying with statutory requirements. The policy has been drafted to take into account government guidance.

5.2.2 The Policy does not form part of the Council's policy framework and is therefore an executive function.

5.3 **Contracts**

5.3.1 None.

5.4 **Corporate Priorities**

5.4.1 To provide the right services, at the right time, and in the right way.

5.5 **Crime and Disorder**

5.5.1 Section 17 of the Crime and Disorder Act 1998 (as amended by the Police and Justice Act 2006) provides that "...it shall be the duty of each authority ...to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent, crime, disorder, anti-social behaviour adversely affecting the environment, and substance misuse in its area".

5.5.2 The policy seeks to address and contain behaviour adversely affecting Council services and/or council officers which have the potential to escalate into criminal behaviour such as anti-social behaviour or behaviour deemed as "harassment".

5.6 **Equality and Diversity / Human Rights**

5.6.1 The Policy reinforces the Council's commitment to providing services that are accessible, inclusive and meet the needs of the community.

5.7 **Financial**

5.7.1 There are no specific financial implications arising from the Policy. If the Policy is successfully applied it should reduce officer time in dealing with unreasonable behaviour.

5.8 **Health & Wellbeing**

5.8.1 None.

5.9 **Reputation**

5.9.1 The Policy will benefit the Council's reputation by providing a framework, and transparency, in how complaints and information requests are dealt with.

5.10 **Risk Management**

5.10.1 Having a Policy which complies with best practice and the recommendations of the Local Government and Social Care Ombudsman/Information Commissioner reduces the risk of subsequent challenge where we may determine that behaviour is unreasonable or

vexatious.

5.11 Safeguarding

5.11.1 None.

5.12 Staffing

5.12.1 None.

5.13 Stakeholders / Consultation / Timescales

5.13.1 None.

5.14 Transformation Programme

5.14.1 None.

6.0 WARDS/COMMUNITIES AFFECTED

6.1 The Policy will be applicable across the whole district.

7.0 ACRONYMS

7.1 FOI – freedom of information

Background papers: None

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Key Decision: No

Exempt Decision: No

This report refers to a mix of Mandatory and Discretionary Services

Appendices attached to this report:

Appendix A	Policy for dealing with Unreasonably Persistent Complaints and Customer Behaviour and Vexatious Requests
Appendix B	Flowchart