

For publication

Review of Unreasonable Complaints Policy

MEETING: 1. Standards and Audit Committee

DATE: 1. 17TH July 2019

REPORT BY: Local Government And Regulatory Law Manager
Monitoring Officer

For publication

1.0 Purpose of report

1.1 To report to members on the use and application of the Council's Policy and Procedure on the Management of Unreasonable Complaints or Customers ("the Policy").

2.0 Recommendations

2.1 That the report is noted.

2.2 Information is added about its application to paragraph 1.11 of the Policy.

3.0 Background

3.1 On 4th October 2016 the Cabinet Member for Governance approved the Council's policy for dealing with unreasonable complainants or complaints. This replaced an earlier policy.

- 3.2 It is a requirement of the Policy that it be reviewed annually by this Committee. This report is the second review of the Policy, the first review was considered by this committee on 23rd May 2018.
- 3.3 A copy of the Policy is attached at Appendix A. The Policy provides guidelines for its application, taking account of current Ombudsman advice and relevant legal cases. The policy sets out a clear and proportionate procedure for warning the complainant and imposing restrictions, with provision for review and right of appeal.

4.0 Application of the Policy

- 4.1 Since the adoption of the Policy the Council has continued to manage complaints received from the public through the Complaints, Comments and Compliments Policy. During this time there have been only a very small number of complaints which may have warranted consideration of whether or not to apply the Policy.
- 4.2 The Policy was first applied in March 2017, and the May 2018 report considered the effectiveness of the use of the policy, use of which was also examined and upheld by the Local Government and Social Care Ombudsman. Some changes were incorporated into the policy as a result of the experience of its application.
- 4.3 A review of the 2017 application of the Policy was facilitated by a meeting in summer 2018 between the relevant assistant director, the complainant and the single point of contact. It led to the withdrawal of the restrictions which had been placed on the complainant because of a satisfactory change in their behaviour.
- 4.4 The policy was applied in February 2018 in relation to the high number, persistence, duration, repetition and often threatening phone calls from a complainant on a tenancy related matter, taking up an unreasonable amount of staff time, engaging staff at different levels and leading to duplication of effort and the need for detailed communication between those staff to avoid issues being overlooked. The contact prevented staff carrying out other work and caused harassment and distress.

- 4.5 A single point of contact was appointed. In addition the complainant was warned to modify their behaviour, and was asked to accept that the matters complained about needed to be investigated stage by stage and to ask for updates only when there had been a reasonable opportunity to progress matters. They were asked to avoid repetition of information when contacting the council. The complainant was asked to stop making threats of taking legal action, going to the media, or using a threat of potential violence to another tenant, as a way of securing faster action. The complainant was also advised on how to make a complaint about staff if they chose to. The complainant did not appeal against the warning.
- 4.6 The policy was applied again in August 2018 by a service manager. This use related to a longstanding complaint about staff and followed a letter to the complainant from the Chief Executive at the final stage of the complaints procedure. The policy was applied because the complainant had acted towards staff in a way that caused, or was likely to cause them nuisance, annoyance, harassment or distress. The complainant had also made unfounded and unjustified allegations against specific staff and had addressed them using insulting terms on repeated occasions.
- 4.7 It was considered appropriate to apply the policy in order to protect council staff, using the Policy rather than taking legal action (which was also considered justifiable). A warning was issued, with a request that any contact with the council should be without using words or conduct threatening, intimidating, abusive, aggressive or malicious to council staff. It was made clear that this did not restrict access to council services, or the right to express dissatisfaction about them.
- 4.8 The complainant appealed against the application of the Policy. The appeal was considered by one of the Executive Directors in December 2018. The complainant had asked for an independent public hearing of his complaint. They also complained about delay in their appeal being dealt with which they saw as evasive and a cover up. An independent hearing was not considered appropriate as under the Policy the Executive Director was a senior officer with no previous involvement with the matter available to consider the matter. The delay had been due to the Council's email security filter preventing delivery.

- 4.9 The Executive Director reviewed the decision to apply a warning under the policy and, after carefully considering relevant documents, other evidence and interviewing staff, concluded that there was sufficient evidence for the council to take action under the policy. Allegations of fabrication, criminality and vindictiveness of staff were rejected. Use of a warning was considered proportionate, and language used by the complainant when pursuing his appeal was also evidence of breach of the warning. The complainant was reminded of their right to take their complaint about application of the Policy to the Ombudsman. There has been no further contact by the complainant since the Executive Director's review and there have been no further incidents. I am not aware of this matter being taken to the Ombudsman at the time of writing this report.
- 4.10 In both cases the complainant was provided with a copy of the policy and their right of appeal, complain to the Ombudsman and to take independent legal advice.

5.0 **Review of the Policy**

- 5.1 The Policy has again proved to be an effective way of managing a persistent/unreasonable complaint. It has achieved its intended outcome by reducing inappropriate contact with services and has protected staff.
- 5.2 While use of the policy is still fairly slow to apply and fairly cumbersome in view of the various appeal stages, these stages help ensure that the complainants' rights are protected and proper consideration is given before the policy is applied. It is important to ensure that any application of the Policy follows these procedures in order to help ensure a complaint to the Ombudsman will be less likely to succeed on procedural grounds.
- 5.3 No changes to the policy are recommended as the result of its application or this review, other than to add the number of times the Policy has been applied, and it appears to have been robust enough to deal with the issues.

6.0 Recommendations

- 6.1 That the report is noted.
- 6.2 Information is added about its application to paragraph 1.11 of the Policy.

7.0 Reason for recommendations

- 7.1 To enable completion of the review of the Policy by the Committee and to ensure an effective Policy in the light of experience from its application.