

East Herts Council Report

Council

Date of Meeting: 16th December 2020

Report by: Head of Communications, Strategy and Policy

Report title: Unreasonable and Persistent Behaviour Policy

Ward(s) affected: All

Summary

RECOMMENDATION FOR COUNCIL:

(a) The new Unreasonable and Persistent Behaviour Policy, be approved by Council

1.0 Proposal(s)

1.1 That a new Unreasonable and Persistent Behaviour Policy replaces the vexatious complainant policy, following recommendation from the Overview and Scrutiny Committee

2.0 Background

2.1 The Council's current vexatious complainant policy can be found here:

<http://democracy.eastherts.gov.uk/documents/s47827/Complainant%20Policy%20ERP%20B%20D.pdf>

2.2 The vexatious complainant policy is need of updating. It is essentially too restrictive as it can only be applied to people who have been through the complaints process and only in regard to a specific complaint/ issue/ freedom of information request (ie. the fact that the requester is vexatious doesn't automatically make further requests vexatious). If an individual

has been declared vexatious they are still entitled to contact us regarding any new issues, service requests or freedom of information requests. Arguably then the vexatious policy doesn't deliver any additional value above and beyond the council's right to not engage with someone. At 6 pages in length it also unnecessarily long.

- 2.3 Once someone has been through the complaints process if they continue to contact us about the same issue their only recourse is to the ombudsman (or Information Commissioner's Office in the case of freedom of information) and we are not obliged to continue correspondence (regardless of being declared vexatious or not). In the last 5 years only two individuals have been declared vexatious however many others have simply been informed that we will keep all their correspondence on record but will no longer respond to them as we have been through our complaints process. This is a much more proportionate and reasonable response than invoking the vexatious complainant policy.
- 2.4 We do however need a definition of unreasonable or persistent contact from customers (often when they have been directed to the complaints process but refuse to engage with it). It is legitimate to disengage with customers who become unreasonable and overly persistent, provided we are clear about what constitutes such behaviour. It should be noted that where such behaviour is deemed to constitute a threat to staff wellbeing the cautionary person's register (maintained by the Health and Safety Officer) captures any details. This register is shared with all relevant staff and reviewed every year and provides stronger safeguards for staff than the vexatious complainant policy.
- 2.5 A new, shorter, "Unreasonable and Persistent Behaviour" policy has been drafted and it is recommended this replaces the vexatious complainant policy (see Appendix A). This policy is much more flexible and outlines a proportionate set of

actions and interventions that can be taken before we consider stopping all contact with a customer.

- 2.6 This draft policy was discussed at Overview and Scrutiny Committee on 3rd November and Committee Members agreed to recommend it to Full Council for approval.

Community Safety

No

Data Protection

Yes – use of information

Equalities

EQIA undertaken on new policy

Environmental Sustainability

No

Financial

No

Health and Safety

No

Human Resources

No

Human Rights

No

Legal

Yes – new policy drafted in conjunction with data protection colleagues. In addition the vexatious complainant policy is part of the overall policy framework outlined in the Council's constitution and therefore can only be approved by Council.

Specific Wards

No

7.0 Background papers, appendices and other relevant material

7.1 Appendix A – Unreasonable and Persistent Behaviour Policy

Contact Member

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