



Havering

L O N D O N B O R O U G H

OVERVIEW & SCRUTINY BOARD (SPECIAL MEETING) AGENDA

7.00 pm	Tuesday 9 October 2018	Havering Town Hall, Main Road, Romford
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Members 16: Quorum 6

COUNCILLORS:

Conservative Group (8)

Ray Best
Philippa Crowder
Judith Holt
Robby Misir
John Mylod
Nisha Patel
Bob Perry
Michael White

Residents' Group (2)

Ray Morgon
Barry Mugglestone

Upminster & Cranham Residents' Group(2)

Clarence Barrett
Gillian Ford

Independent Residents' Group (2)

Natasha Summers
Graham Williamson

Labour Group (1)

Keith Darvill (Vice-Chair)

North Havering Residents Group(1)

Darren Wise (Chairman)

For information about the meeting please contact:

**Richard Cursons 01708 432430
richard.cursons@oneSource.co.uk**

Protocol for members of the public wishing to report on meetings of the London Borough of Havering

Members of the public are entitled to report on meetings of Council, Committees and Cabinet, except in circumstances where the public have been excluded as permitted by law.

Reporting means:-

- filming, photographing or making an audio recording of the proceedings of the meeting;
- using any other means for enabling persons not present to see or hear proceedings at a meeting as it takes place or later; or
- reporting or providing commentary on proceedings at a meeting, orally or in writing, so that the report or commentary is available as the meeting takes place or later if the person is not present.

Anyone present at a meeting as it takes place is not permitted to carry out an oral commentary or report. This is to prevent the business of the meeting being disrupted.

Anyone attending a meeting is asked to advise Democratic Services staff on 01708 433076 that they wish to report on the meeting and how they wish to do so. This is to enable employees to guide anyone choosing to report on proceedings to an appropriate place from which to be able to report effectively.

Members of the public are asked to remain seated throughout the meeting as standing up and walking around could distract from the business in hand.

OVERVIEW AND SCRUTINY BOARD

Under the Localism Act 2011 (s. 9F) each local authority is required by law to establish an overview and scrutiny function to support and scrutinise the Council's executive arrangements.

The Overview and Scrutiny Board acts as a vehicle by which the effectiveness of scrutiny is monitored and where work undertaken by themed sub-committees can be coordinated to avoid duplication and to ensure that areas of priority are being reviewed. The Board also scrutinises general management matters relating to the Council and further details are given in the terms of reference below. The Overview and Scrutiny Board has oversight of performance information submitted to the Council's executive and also leads on scrutiny of the Council budget and associated information. All requisitions or 'call-ins' of executive decisions are dealt with by the Board.

The Board is politically balanced and includes among its membership the Chairmen of the six themed Overview and Scrutiny Sub-Committees.

Terms of Reference:

The areas scrutinised by the Board are:

- Strategy and commissioning
- Partnerships with Business
- Customer access
- E-government and ICT
- Finance (although each committee is responsible for budget processes that affect its area of oversight)
- Human resources
- Asset Management
- Property resources
- Facilities Management
- Communications
- Democratic Services
- Social inclusion
- Councillor Call for Action
-

DECLARING INTERESTS FLOWCHART – QUESTIONS TO ASK YOURSELF



AGENDA ITEMS

1 CHAIRMAN'S ANNOUNCEMENTS

The Chairman will announce details of the arrangements in case of fire or other events that might require the meeting room or building's evacuation.

2 APOLOGIES FOR ABSENCE AND ANNOUNCEMENT OF SUBSTITUTE MEMBERS

(if any) - receive.

3 DISCLOSURE OF INTERESTS

Members are invited to disclose any interest in any of the items on the agenda at this point of the meeting.

Members may still disclose any interest in an item at any time prior to the consideration of the matter.

4 CALL-IN OF A KEY DECISION 18/51 - HIGHWAYS CAPITAL FOOTWAY AND CARRIAGEWAY RESURFACING PROGRAMME 2018/19 (Pages 1 - 18)

5 CALL-IN OF A KEY DECISION 18/52 - UPDATE TO CORPORATE COMPLAINTS POLICY AND PROCEDURE (Pages 19 - 54)

Andrew Beesley
Head of Democratic Services

Overview & Scrutiny Board

9 October 2018

Subject Heading:

Call-in of a Executive Decision relating to the Highways Capital Programme 2018/19

SLT Lead:

Daniel Fenwick – Director of Legal & Governance

Report Author and contact details:

Richard Cursons – Democratic Services Officer
richard.cursons@onesource.co.uk

Policy context:

The Corporate Plan includes specific commitments to maintain and clean our roads, pavements and town centres.

Financial summary:

Highways Act 1980 outlines a duty of the council to maintain the highways at public expense free from danger.

The agreed capital value of £3.2m for 2018/19 for highways maintenance contributes to the attached programme of works shown in Appendix 1

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

SUMMARY

In accordance with paragraph 17 of the Overview & Scrutiny Committee Rules, a requisition signed by two Members representing more than one

Group (Councillors Ray Morgon and Clarence Barrett) have called-in the Executive Decision dated 17 September 2018.

RECOMMENDATION

That the Board considers the requisition of the call-in of the Executive Decision and determines whether to uphold it.

REPORT DETAIL

As per Appendix A

Background Papers List

Appendix A – Executive Decision

From: Councillor Ray Morgon
Sent: 25 September 2018 10:43
To: Andrew Beesley
Cc: Councillor Clarence Barrett
Subject: FW: Highways Capital Programme

Hi Andrew,

Please accept this notice to requisition the Highways Capital Programme Executive Decision 18/51 on the following grounds:-

1. There is a lack of detail in respect of the business case for each intended works.
2. There is a lack of data to provide evidence to back up the "worst first" business case. (There are no figures on the number of repair requests received for works to be done in each road over the past 3 years, details of input from the ALO's and results of UKPMS surveys).
3. There is a lack of detail on how the Horizon system creates the "worst first" list.
4. Lack of detail on the £1.7 million not now required on other schemes.

Clarence has agreed to countersign the requisition.

Ray

Notice of KEY Executive Decision

Subject Heading:	Highways Capital Programme 2018/19
Cabinet Member:	Councillor Osman Dervish
SLT Lead:	Steve Moore
Report Author and contact details:	Ollie Miller Ollie.Miller@havering.gov.uk 01708 431424
Policy context:	The Corporate Plan includes specific commitments to maintain and clean our roads, pavements and town centres. Highways Act 1980 outlines a duty of the council to maintain the highways at public expense free from danger.
Financial summary:	The agreed capital value of £3.2m for 2018/19 for highways maintenance contributes to the attached programme of works shown in Appendix 1.
Reason decision is Key	The grounds for decision being Key: (a) Expenditure of £2,000,000, and; (c) Significant effect on two or more Wards
Date notice given of intended decision:	14 th September 2018

Key Executive Decision

Relevant OSC:	Environment Overview and Scrutiny
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

To approve the highway works schemes selected in appendices (listed in appendix one and mapped in appendix two).

AUTHORITY UNDER WHICH DECISION IS MADE

Individual Cabinet members' responsibilities for functions are set out in Part 3, section 2.5 (D) of the Constitution.

"To determine priorities in conjunction with the relevant member of CMT (within the policy framework and budget)."

STATEMENT OF THE REASONS FOR THE DECISION

The length of the highway network in Havering consists of 740km of carriageways (roads) and nearly 1,070km of footways, making it the second largest highway network in London. Havering, in its capacity as the Highway Authority, has a statutory duty to maintain the public highway (Highways Act 1980 s41) but fulfilling that statutory duty with such an extensive highway network can be challenging and expensive. With finite levels of capital funding available, it is critical that any funding is spent in the most effective way possible to get the maximum benefit to the highway network.

Proactive resurfacing not only helps the Council fulfil its statutory duties under the Highways Act, it also supports much of the Council's own vision and many of the desired outcomes in its Corporate Plan.

Method for prioritising locations for resurfacing – doing the 'worst-first'

The proposed locations for resurfacing works on borough footways and carriageways set out in appendix one are identified using a 'worst-first' approach.

The locations identified for surfacing works are considered to be the most in need of resurfacing based on the most recent condition United Kingdom Pavement Management System (UKPMS) surveys undertaken of every road and footway within Havering with the resulting programme lists generated and then verified by qualified highways engineers.

The worst-first lists are checked on site by qualified engineers and amendments are made for reasons such as:

- A different treatment type is needed as the road is low speed, fast braking etc.

Key Executive Decision

- The exact extent of the surfacing can be extended or contracted for traffic management, logistical reasons etc.
- The location may have already been resurfaced since the latest condition survey data

Making use of 'Horizons' to Objectively Deliver the 'worst-first' Strategy

In terms of a policy approach to identifying surfacing locations, it is appropriate to have an overtly objective approach to identifying and prioritising capital spending. Horizons is the newly introduced objective tool that has been utilised.¹

The Horizons software identifies and prioritises highway maintenance schemes, and determines the cost implications of various treatments. It allows Havering to use locally defined remedial treatments and also allows users to specify additional criteria and triggers at which these treatments would be invoked should it so wish. UKPMS (United Kingdom Pavement Management System) survey data - collected by Havering in accordance with industry best practice - is entered into Horizons and is the most significant input in terms of generating the works programme.

Condition surveys will be continued on an annual basis, which will further improve modelling of the highway asset in the future. Improving and maintaining survey data of the footway and carriageway will enable the Council to further refine lifecycle planning targets which would serve to better inform the future level of funding required.

Delivery of the programme

It is intended that all of the £3.2million allocation will be spent during 2018/19 although bad weather and urgent utility works (e.g. burst water mains) can lead to schedule revisions.

Possible additional schemes on top of those listed in appendix one could be surfaced if one of the following arose:

- proposed schemes are cheaper than anticipated,
- additional capital funding becomes available in-year, or
- particular locations are not able to be surfaced in 2018/19 (e.g. due to emergency utility works, bad weather etc.)

OTHER OPTIONS CONSIDERED AND REJECTED

¹ Horizons is a web based mapping application which allows users to visualise, manage and optimise asset management strategies. The software package is based on a combination of GIS, Pavement Management and Asset Management systems.

<https://www.yotta.co.uk/software/horizons/>

Key Executive Decision

Preventative on going small scale maintenance assist in maintaining our roads and footways to a safe and reasonable level, although the schemes listed in the attached are deemed to be in greater need at this present moment in time, the alternative not to invest this capital funding would result in a further deterioration of capital assets resulting in more costly future repairs, possible safety implications and poor public perception.

PRE-DECISION CONSULTATION

Briefings held with Cabinet Members and Senior Leadership team

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Ollie Miller

Designation: Group Manager, Highways Traffic & Parking

Signature: 

Date: 18/9/18.

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

Here officers seek approval for the Highways Maintenance Capital Programme for 2018/19 and the allocation of expenditure of £3.2 million for carriageway and footway renewal. The locations for capital works requires a key executive decision to be made by the Cabinet Member as per the Council's constitution given the spend level and that the locations are across multiple wards.

The London Borough of Havering as Highway Authority has a statutory duty to maintain the public highway (Highways Act 1980 s41) ensuring that it is in a safe and condition.

When carrying out the works Officers need to ensure the Contractor is mindful to ensure appropriate notices are lodged, including those relating to the Road Traffic Act, NRSW Act and the Traffic Management Act."

FINANCIAL IMPLICATIONS AND RISKS

A £2.0 million capital allocation for highway renewals is available as part of the five year Street Management Highway Resurfacing Capital programme for 2018/23.

Additional capital funding has been identified from the stocktake exercise carried out on existing capital programme. Services identified a total of some £1.2m of capital budgets that were no longer required for the original purpose, as either the scheme was

Key Executive Decision

completed under the approved budget, alternative funding has been identified or the approved capital was no longer specifically required. It is proposed that this capital approval, which is funded within the existing budget envelope, is redirected to the new purpose of footways and carriageway renewal. Formal virement of these sums will be undertaken as outlined within the financial regulations and delegations.

Approval is being sort to allocate £1.0 million for carriageway renewal and £1.0 million for footway renewal (including survey fees, staffing fees and capitalisation of some staffing costs).

The carriageway and footway works referred to in this decision will be funded from the aforementioned budgets. It is intended that the proposed Highway works schemes shown in Appendix x will be completed within 2018/19.

Due to the nature of highway resurfacing works, unforeseen circumstances within the highway construction phase may cause the volume of works necessary to change, along with the associated costs.

For example

- income generated from vehicle crossovers offered at a reduced rate within footway works, are used to part fund the overall Highways works cost.
- If contaminated asphalt is found during excavation disposal costs would increase the overall cost of works.

All costs of works will be monitored to ensure no overspend on the capital budgets, this may mean deferring some of the proposed works in appendix x to the following financial year.

The London Borough of Havering, in its capacity as the Highway Authority, has a statutory duty to maintain the public highway (Highways Act 1980 s41) ensuring that it is in a safe and passable condition and is maintained to an acceptable standard.

The risk of not carrying out these carriageway and footway renewals is that it would increase the chances of an accident occurring on these chosen schemes, for which the Council could find itself financially liable in third party claims.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no HR implications or risks arising directly as a result of this decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

Havering has a diverse community made up of many different groups and individuals. The council values diversity and believes it essential to understand and include the contributions, perspectives and experience that people from different backgrounds bring.

Key Executive Decision

The Public Sector Equality Duty (PSED) under section 149 of the Equality Act 2010 requires the council, when exercising its functions, to have due regard to:

- (i) the need to eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Equality Act 2010;
- (ii) the need to advance equality of opportunity between persons who share protected characteristics and those who do not, and;
- (iii) foster good relations between those who have protected characteristics and those who do not.

Note: 'Protected characteristics' are: age, sex/gender, race, disability, sexual orientation, marriage and civil partnerships, religion or belief, pregnancy and maternity and gender reassignment.

The council demonstrates its commitment to the Equality Act in its decision-making processes, the provision, procurement and commissioning of its services, and employment practices concerning its workforce. In addition, the council is also committed to improving the quality of life and wellbeing of all Havering residents in respect of socio-economics and health determinants.

BACKGROUND PAPERS

None

Key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me by the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Delete as applicable

~~Proposal NOT agreed because~~

Details of decision maker

Signed



Name: Cllr Osman Dervish

Cabinet Portfolio held: Cabinet Member for Environment

Date: 17/09/2018.

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Committee Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 27/9/18

Signed A-H-CH

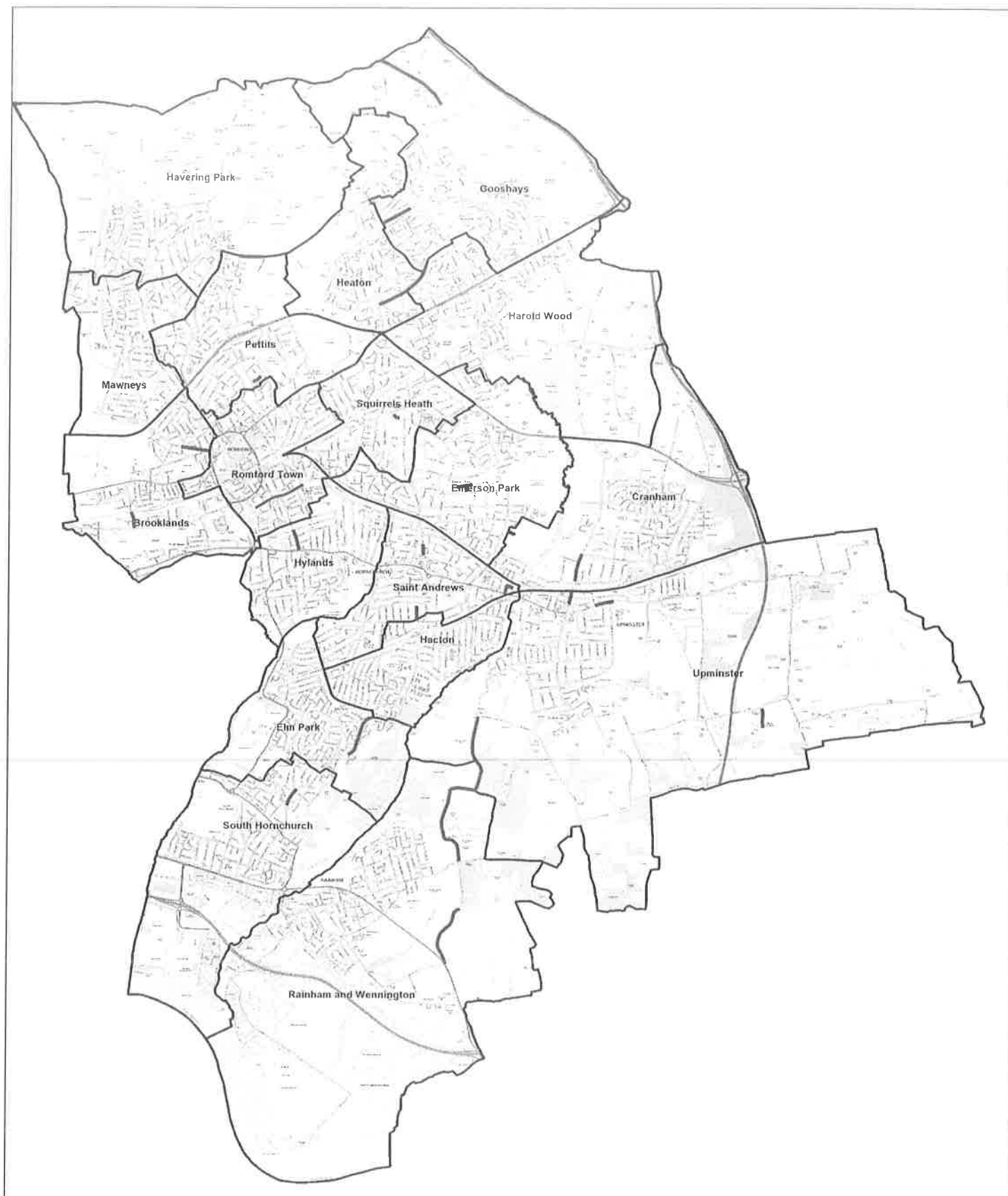
APPENDIX 1

Footway Resurfacing List - £1.6m budget

Priority	Road Name	Parameter	Ward	Treatment Required
1	BRIAR ROAD	Chatteris Ave to Lavender Close (left side only)	Heaton	Full Construction
2	BOSWORTH CRESCENT	All	Heaton	Full Construction
3	DRUMMOND AVENUE	All	Brooklands	Full Construction
4	BALMORAL ROAD	All	Hacton	Full Construction
5	CHILTERN GARDENS	All	Hacton	Full Construction
6	CHASE CROSS ROAD	Ascension Road to Felstead Road (right side only)	Havering Park	Full Construction
7	WHITETHORN GARDENS	All	Emerson Park	Full Construction
8	BERKELEY CLOSE	All	Cranham	Full Construction
9	FOOTPATH 113	All	Squirrel's Heath	Reg & O/lay
10	CRAMMERVILLE WALK	All	Rainham and Wennington	Slurry Seal
11	FOOTPATH 70	All	Pettits	Reg & O/lay
12	OAK ROAD	All	Harold Wood	Slurry Seal
13	WIDECOMBE CLOSE	All	Heaton	Slurry Seal
14	BARTON AVENUE	All	Brooklands	Slurry Seal
15	CAVELL CRESCENT	All	Harold Wood	Slurry Seal
16	JACOBS AVENUE	All	Harold Wood	Slurry Seal
17	YELVERTON CLOSE	All	Heaton	Full Construction
18	HACTON LANE	Railway Bridge to number 54 (left side only)	St. Andrew's	Full Construction
19	CHUDLEIGH ROAD	Whitchurch Road to Dagnam Park Drive (right side only)	Gooshays	Slurry Seal
20	THORNCROFT	All	Hylands	Slurry Seal
21	PARKHILL CLOSE	All	St. Andrew's	Slurry Seal
22	FANSHAWE CRESCENT	All	Emerson Park	Full Construction
23	ASHBURNHAM GARDENS	All	Cranham	Full Construction
24	HAMILTON DRIVE	All	Harold Wood	Slurry Seal
25	THE DRIVE	All (Recreation ground to Faircross Ave Slurry & Faircross Ave to Gobians Ave civils)	Mawneys and Havering Park	Slurry & Full Construction
26	RIVERSDALE ROAD	All	Mawneys	Full Construction
27	CLEMATIS CLOSE	All	Heaton	Full Construction
28	URBAN AVENUE	All	St. Andrew's	Full Construction
29	BERWICK POND CLOSE	All	Rainham and Wennington	Full Construction

Carriageway Resurfacing List - £1.6m budget

Priority	Road Name	Parameter	Ward	Treatment Required
1	LAUNDERS LANE	from A1306 to a point 940m north by Bridge to watercourse	Rainham and Wennington	CW Resurfacing 40mm
2	FARINGDON AVENUE	From Junction of Straight Road to a point 850m east to O/S 110	Harold Wood & Heaton	CW Resurfacing 50mm + Glass
3	SOUTH END ROAD	From Elmer Gardens to a point 295m south west to O/S 85	South Hornchurch	CW Resurfacing 40mm
4	CHURCH LANE	All of road from Ockendon Rd	Upminster	CW Resurfacing 50mm + Glass
5	CHURCH ROAD	All of road Chequers Road to Borough Boundary	Gooshays	CW Microsurfacing
6	HARDLEY CRESCENT	Woodcutters Close to End	Squirrel's Heath	CW Resurfacing 100mm
7	BRIDGWATER ROAD	Jct Edenhall Rd to the eastern junction of Montgomery Crescent	Gooshays	CW Resurfacing 40mm
8	HALL LANE	Deycourt Gds to Ingrebourne Gds	Cranham	CW Resurfacing 50mm + Glass
9	NORTH STREET	Theatre Rd to a point 170m south (Exit to Sainsbury Car Park)	St Andrews	CW Resurfacing 40mm
10	STATION ROAD	Gaynes Road to Station	Upminster	CW Resurfacing 40mm
11	AIRFIELD WAY	Rochester Road to Tesco Entrance	Elm Park	40mm overlay and kerb adjustments
12	ST MARYS LANE	Garbutt Road to a point 470m east to O/S 321	Upminster	CW Microsurfacing
13	PARK LANE	Bush Elms Road to Hornchurch Road	Hylands	CW Resurfacing 40mm
14	HORNMINSTER GLEN	All of Road	St Andrews	CW Resurfacing 40mm
15	JUTSUMS LANE	Crow Lane to Railway Bridge	Brooklands	40mm overlay and kerb adjustments
16	LOWER BEDFORDS ROAD	Helmsdale Road to Rise Bridge Chase	Pettits	CW Resurfacing 40mm
17	WARRINER AVENUE	All of Road	St Andrews	CW Microsurfacing
18	WAYSIDE CLOSE	All of Road	Pettits	CW Resurfacing 100mm
19	BERWICK POND ROAD	All of Road	Rainham and Wennington	CW Surface Dressing
20	FREEMAN WAY	All of Road	Emerson Park	CW Microsurfacing
21	MAWNEY ROAD	Willow Street to St Edwards Way	Brooklands	CW Resurfacing 40mm
22	BRENTWOOD ROAD	South Street to Princess Road	Romford Town	CW Resurfacing 40mm



Carriageway Schemes 2018/19



Scale: 1:50000

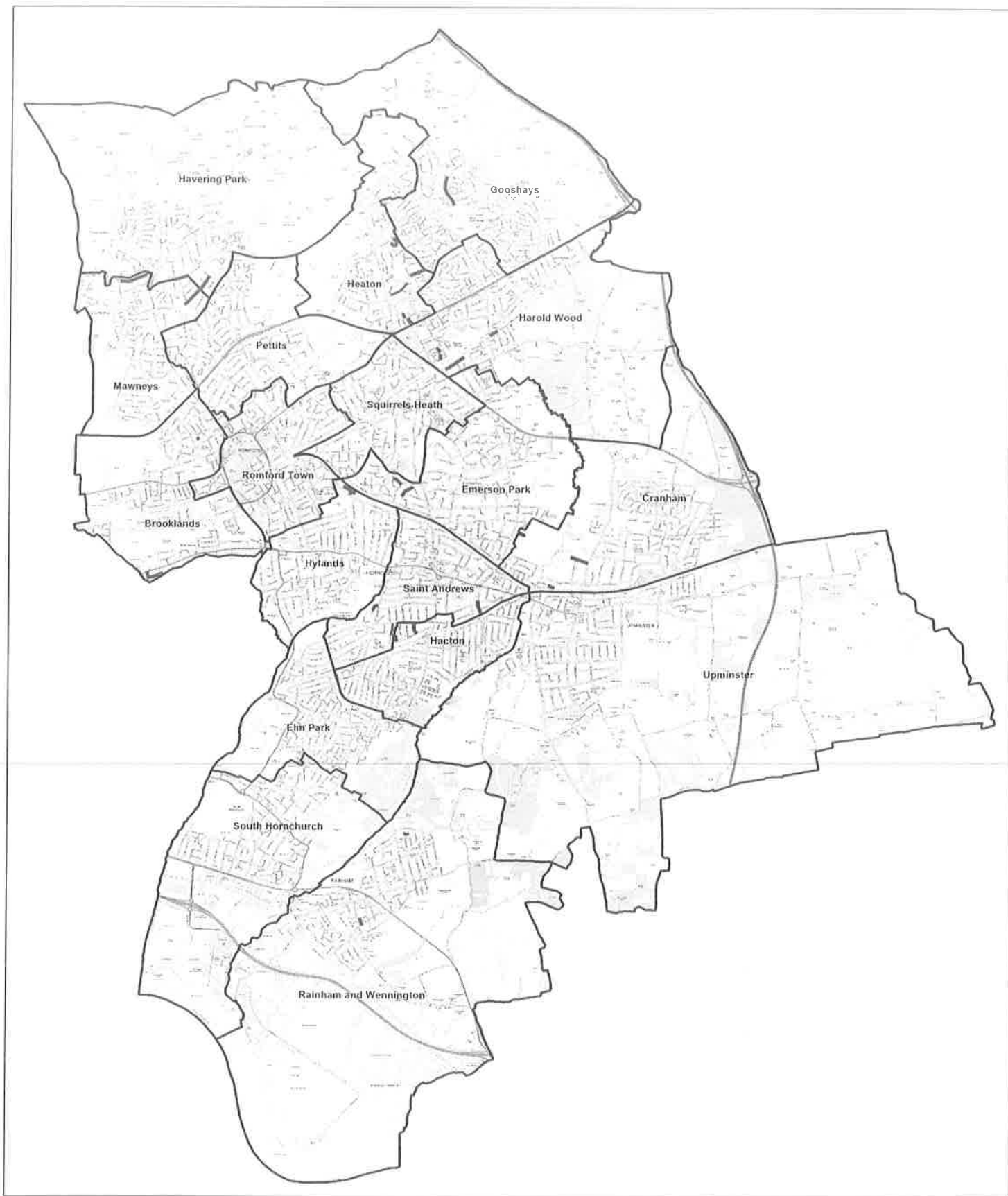
Date: 11 September 2018

0 5000 10000 15000 metres



London Borough of Havering
Town Hall, Main Road
Romford, RM1 3BD
Tel: 01708 434343

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Ordnance Survey 100024327



Footway Schemes 2018/19



Scale: 1:50000

Date: 11 September 2018

0 5000 10000 15000 metres



London Borough of Havering
Town Hall, Main Road
Romford, RM1 3BD
Tel: 01708 434343

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Ordnance Survey 100024327

Overview & Scrutiny Board

9 October 2018

Subject Heading:

SLT Lead:

Report Author and contact details:

Policy context:

Financial summary:

REPORT

Call-in of a Executive Decision relating to the update to the Corporate Complaints Policy and Procedure

Daniel Fenwick – Director of Legal & Governance

Richard Cursons – Democratic Services Officer

richard.cursons@onesource.co.uk

To improve customer satisfaction

No financial implications

The subject matter of this report deals with the following Council Objectives

Communities making Havering
Places making Havering
Opportunities making Havering
Connections making Havering

[X]

[X]

[X]

[X]

SUMMARY

In accordance with paragraph 17 of the Overview & Scrutiny Committee Rules, a requisition signed by two Members representing more than one Group (Councillors Ray Morgon and Clarence Barrett) have called-in the Executive Decision dated 27 September 2018.

RECOMMENDATION

That the Board considers the requisition of the call-in of the Executive Decision and determines whether to uphold it.

REPORT DETAIL

As per Appendix A

Background Papers List

Appendix A – Executive Decision

On 28 Sep 2018, at 11:17, CouncillorRay Morgon <CouncillorRay.Morgon@havering.gov.uk> wrote:

Hi Andrew,

Please accept this notice to requisition the above Executive Decision 18/52 on the following grounds:-

- 1 .There is a lack of detail and evidence in changes to performance and complexity of cases justifying changes in target timings.
2. There is a lack of evidence in how member involvement at stage 3 helps with cases before potential referral to the Ombudsman.
3. There is a lack of detail and evidence as to why the quality of investigations at stage 1 has reduced, together with actions taken to remedy this.
4. There is a lack of detail on how customer service is improved by complainants waiting longer for a reply at stage 2.

I have copied in Cllr Barrett to countersign the requisition.

Ray

Notice of KEY Executive Decision

Subject Heading:	Update to the Corporate Complaints Policy and Procedure
Cabinet Member:	Councillor Damian White
SLT Lead:	Andrew Blake-Herbert
Report Author and contact details:	Carol Ager Extn 4389
Policy context:	To improve customer satisfaction
Financial summary:	No financial implications
Reason decision is Key	The Council's Corporate Complaints Policy and Procedure is relevant to all staff and residents within the borough. The changes will therefore affect all Wards.
Date notice given of intended decision:	04 September, 2018
Relevant OSC:	Overview and Scrutiny
Is it an urgent decision?	No
Is this decision exempt from being called-in?	No

The subject matter of this report deals with the following Council Objectives

Communities making Havering	[X]
Places making Havering	[X]
Opportunities making Havering	[X]
Connections making Havering	[X]

Part A – Report seeking decision

DETAIL OF THE DECISION REQUESTED AND RECOMMENDED ACTION

- To note a review of the Council's Corporate Complaints Policy and Procedure;
- To agree the revised timescales for handling complaints at each stage

AUTHORITY UNDER WHICH DECISION IS MADE

Section 3: 2.5 (q) To agree minor matters and urgent or routine policy matters.

STATEMENT OF THE REASONS FOR THE DECISION

On 1st April 2015, Cabinet agreed a revised Corporate Complaints procedure. This was to aid and improve performance in both timescale and quality.

Clarification was given as to what the Council considers a complaint as opposed to the issues that could better be described as service requests:

A complaint is any expression of dissatisfaction about the Council's provision of, or failure to provide, a service for which it has responsibility and when it has not put right any service failure in a reasonable timescale.

In addition, greater clarity was set out with regard to issues that could not be dealt with under the Policy because they need to follow a statutory process.

The timescales for resolving complaints are publicised as 3 days for an acknowledgement and 15 days for a full response at Stage 1; 20 days for Stage 2 and a calendar month for Stage 3.

Performance for dealing with complaints is reported quarterly to Adjudication and Review Committee. Improvements were clearly evidenced in the first two years of the life of the procedure, in both quality and timescales.

The Complaint Policy and Procedure was due for review within 18 months of its introduction, but this did not occur due to some senior management restructures, including the appointment of a new Chief Executive. A revision to the Policy at that time was deemed inappropriate.

However, recent changes to performance and complexity of some complaints have prompted consideration of the complaint timings and the need to bring the Policy up to date.

The merits of three stages to the council's process have been considered, including whether Stage 3 should be removed. However, given the fact that just seven Stage 3 complaints have been received in the three and a half years since April 2015

Key Executive Decision

compared to 15 in the year leading up to the introduction of the Policy, it is believed the process at Stage 2 is sufficiently robust to deal with, and resolve, complaints without the need for further escalation. In addition, it gives Members the opportunity to be involved with, and directly assist in, the resolution of escalated complaints prior to any referral to the Local Government and Social Care Ombudsman.

It is worth noting that the timescale for the receipt of a Stage 3 complaint to completion is a calendar month. In a recent case, as the complaint was received during the local election period, it was not possible to convene a Member Review Panel within the required timescales and as a result, the case was reported late.

As mentioned previously, performance improved a great deal since April 2015. However, there has been a noticeable change in the quality of investigations undertaken at Stage 1 of the process, causing an impact on the depth and complexity of Stage 2 complaints. Generally speaking, Stage 1 complaints are still meeting the prescribed timescale for 95% completion within 15 days, but this does not reflect the quality of the investigation.

New CRM system - the current Customer Relationship Management (CRM) system will soon become obsolete. Scoping work is being undertaken to determine the requirements for a new viable system. The introduction of a new system will provide an opportunity for all staff to be trained, or re-trained on both the use of a new complaint management system and the requirements of the Council's Complaint Policy and Procedure. A full training programme will be rolled-out across the authority, and will include mandatory online training on the complaints process.

It is proposed that the following changes are made to timescales for the Corporate Complaint Policy and Procedure.

- Stage 1 to be amended to 10 working days
- Stage 2 to increase to 25 working days, to allow for increased pressure caused by more complex investigations
- Stage 3 to be brought in line with working day reporting and to allow a little additional time for Members to make themselves available for a Member Review Panel
- It is proposed to keep the performance indicator targets at the same level.

The Policy and Procedure has been updated slightly to reflect current practice.

OTHER OPTIONS CONSIDERED AND REJECTED

No other options considered.

PRE-DECISION CONSULTATION

There has been no formal consultation on this proposed decision. The purpose of the amendments to the Complaints process is to provide improved customer service.

Key Executive Decision

NAME AND JOB TITLE OF STAFF MEMBER ADVISING THE DECISION-MAKER

Name: Andrew Blake-Herbert

Designation: Chief Executive



Signature:

Date: 06.09.18

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

There are no legal implications or risks relating to the proposed decision.

FINANCIAL IMPLICATIONS AND RISKS

There are no financial implications or risks relating to the proposed decision.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no Human Resources implications or risks relating to the proposed decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

There are no equalities and social implications or risks relating to the proposed decision.

The changes will not have a significant impact on any of the "protected characteristics", as the review and update to the Policy relates only to the council's internal handling of complaints and the timescales in which this is delivered.

BACKGROUND PAPERS

None

Revised Corporate Complaint Policy and Procedure - attached

Key Executive Decision

Part C – Record of decision

I have made this executive decision in accordance with authority delegated to me as the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed

Name: Councillor Damian White

Leader of the Council

Date:

Lodging this notice

The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on _____

Signed _____

Key Executive Decision

Part B - Assessment of implications and risks

LEGAL IMPLICATIONS AND RISKS

There are no legal implications or risks relating to the proposed decision.

FINANCIAL IMPLICATIONS AND RISKS

There are no financial implications or risks relating to the proposed decision.

HUMAN RESOURCES IMPLICATIONS AND RISKS (AND ACCOMMODATION IMPLICATIONS WHERE RELEVANT)

There are no Human Resources implications or risks relating to the proposed decision.

EQUALITIES AND SOCIAL INCLUSION IMPLICATIONS AND RISKS

There are no equalities and social implications or risks relating to the proposed decision.

The changes will not have a significant impact on any of the "protected characteristics", as the review and update to the Policy relates only to the council's internal handling of complaints and the timescales in which this is delivered.

BACKGROUND PAPERS

Revised Corporate Complaint Policy and Procedure - attached

Key Executive Decision

Part C – Record of decision

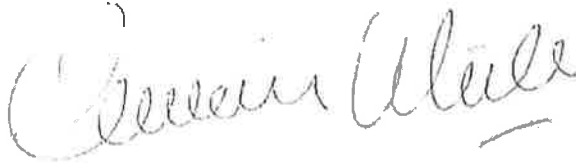
I have made this executive decision in accordance with authority delegated to me as the Leader of the Council and in compliance with the requirements of the Constitution.

Decision

Proposal agreed

Details of decision maker

Signed



Name: Councillor Damian White

Leader of the Council

Date: 27/09/2018

Lodging this notice

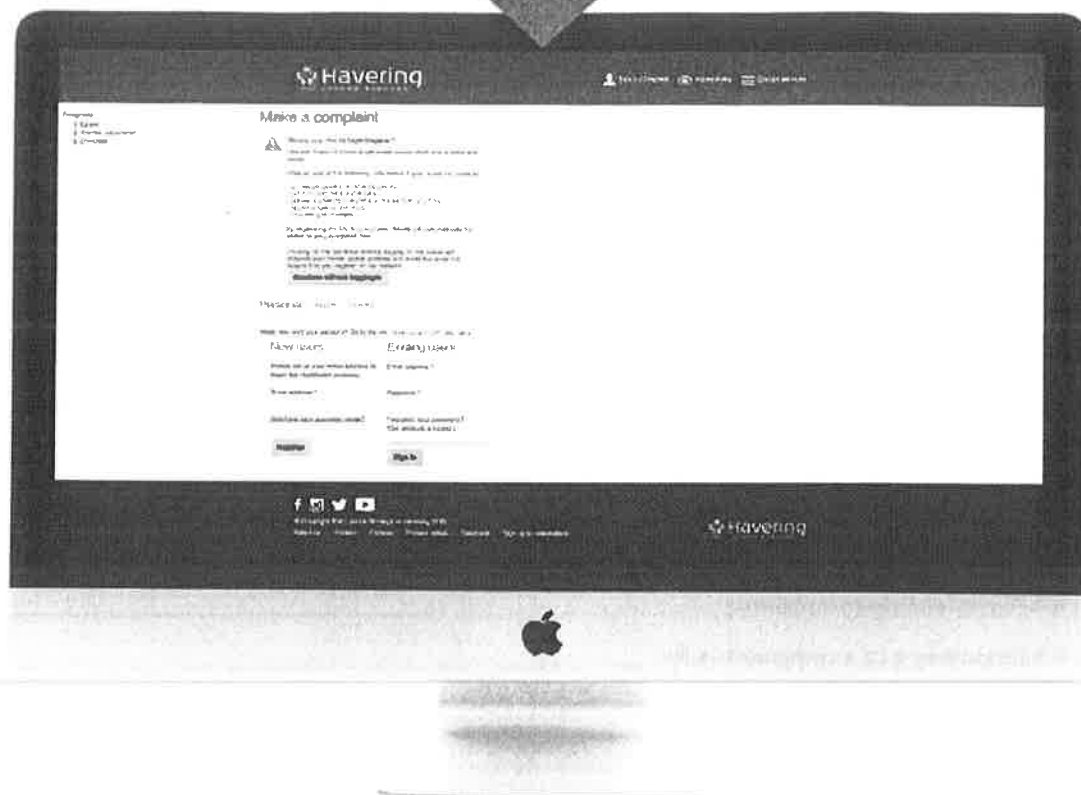
The signed decision notice must be delivered to the proper officer, Debra Marlow, Principal Democratic Services Officer in Democratic Services, in the Town Hall.

For use by Committee Administration

This notice was lodged with me on 27/09/2018

Signed _____

The Council's Complaint Policy and Procedure



www.havering.gov.uk

 **Havering**
LONDON BOROUGH

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PURPOSE

A key determinant of how responsive we are as a Council is ensuring that we have a positive approach to dealing with our residents' and customers' feedback. This approach must be supported by the implementation of a fair, consistent and effective Policy and Procedure for handling complaints. The key areas of this Policy and Procedure are set out including:

- aims and objectives of the complaints Policy and Procedure;
- the stages of the formal complaints Policy and Procedure;
- roles and responsibilities of staff;
- monitoring arrangements; and
- data publication.

The Council strives to find sustainable solutions to the challenges faced by our residents, through the provision of a high standard of customer care. Our approach is driven by the Council's Vision. The primary focus of this Policy and Procedure is to identify potential service improvements and pass on the benefits to our customer.

1. POLICY AND PROCEDURE SUMMARY

This Policy and Procedure defines what constitutes a complaint; who can make a complaint and how to go about it. The various stages of the Council's Policy and Procedure are set out, together with what the customer may expect as a response.

2. SCOPE

This Policy and Procedure deals with complaints that span Council services but excludes complaints made about allocation decisions on housing, Penalty Charge Notices (PCNs); appeals against the refusal of planning applications and complaints about adults' and children's social services, all of which are dealt with by separate procedures. A detailed list of exclusions can be found later in the Policy and Procedure.

This Policy and Procedure does not include Members' enquiries or service requests, which follow a separate route for resolution.

This Policy and Procedure does, however, include complaints from councillors and MPs on behalf of their constituents, ie when the Council has failed to provide a service to a resident that they might reasonably expect.

The differential is in the object of the contact: a service request for a pot hole that is being reported for rectification or an enquiry for consideration of revised road markings against a complaint that the repaired pot hole had not restored the road to an acceptable level or the road marking, once agreed, has failed to materialise.

3. TIMESCALES

This Policy and Procedure sets the framework for continual service improvement based on how the Council responds to complaints.

4. AIMS AND OBJECTIVES

All feedback will be dealt with in a fair, confidential, consistent, effective and timely manner. The objectives of the complaints Policy and Procedure are to:

- achieve complaint resolution at Stage one as far as is possible;
- provide an accessible means for all customers, or their advocates, to complain if they are dissatisfied;
- provide a fair and consistent process for resolving complaints;
- establish timescales for complaint resolution that are met as far as possible;
- facilitate the use of complaint information as a means of monitoring performance and improving services;
- learn lessons to prevent repeat complaints;
- ensure complainants and members of staff have the same rights to be treated with courtesy and respect; and
- ensure that plain English is used when answering customer complaints.

5. COMPLAINTS

5.1 Defining what is and isn't a complaint

A number of requests received by the Authority at first appear to be complaints. However to deal with them as such will delay the Council's response and not allow those significant issues to be given the time they deserve. Therefore to determine what a complaint is we first need to state what it is not.

Service Failure

The Council encourages any customer who has a problem with services that needs a quick resolution (e.g. missed bin collection, streetlight out, pothole to report or repair needed to Council housing etc.) to report it online. These issues are failures in service provision, and can be put right reasonably quickly and are picked up through the Council's web pages on the internet. However, contact about how the service was provided, ie the customer may be unhappy with the way the housing repair has been undertaken, would be deemed as a complaint and dealt with as such or if service requests through the REPORT IT route have failed, eg the bin still hasn't been collected.

Enquiry

There are other requests that also present as complaints. For example the traffic in a given area may be excessive which prompts a request for new road markings or a change of view on additional housing for that area. Whilst the issue is raised complaining about the traffic, the Council is not responsible for traffic volume but will consider any suggestion that might alleviate it. This is therefore deemed an enquiry.

What is a complaint?

The Council defines a complaint as any expression of dissatisfaction about the Council's provision of, or failure to provide, a service for which it has responsibility and when it has not put right any service failure in a reasonable timescale.

5.2 Who can complain?

Anyone who uses or is affected by our services can complain. This includes:

- residents;
- customers or service users;
- people who work in or visit the Borough;
- advocates on behalf of the above;
- local businesses;
- community groups;
- Councillors on behalf of their constituents;
- MPs on behalf of their constituents.

5.3 Support and advocacy

Many people feel daunted at the prospect of making a complaint. They may be unsure how to go about it or how best to put their case. The form has been designed to help people to express their dissatisfaction in a way that makes it clear to staff the crux of the problem and what the customer requests as a resolution. By using this framework, it is hoped there will be greater clarity between the customer and the Council to enable a first time response to resolve the issue in the majority of cases.

The Council has a positive approach to complaints. The Council will provide assistance to people who have difficulty accessing or using the complaint form and provide alternative means of making a complaint when required.

The Council will, where appropriate, accept complaints from advocates or third-parties, provided that the person affected has given their written consent.

In some cases, for example children or vulnerable people, if it seems that the person may be unable to give their consent, the Council will make a judgement as to whether it is appropriate to accept the complaint from an unconfirmed representative.

5.4 Anonymous complaints

A complaint should not be dismissed if it is submitted anonymously. A judgement will be made on a case by case basis whether to look into the substance of a complaint made anonymously.

5.5 How can complaints be made?

We accept complaints:

- via the Council's on-line complaint form;
- by telephone via our call centre staff (if the customer has difficulty accessing or using the complaint form);
- by hard copy completion of the form;
- exceptionally, by letter if the letter contains all the information requested of the complainant on the designated form and are one-off letters from individuals [usually the disadvantaged or elderly residents who would find other routes difficult to access].

As mentioned, the Council's complaint form on the website is designed to support the customer to clearly articulate the nature of the complaint and the redress expected. This is in line with the Council's aim to promote easier access for customers to work with the Council 24-hours a day and is designed to support staff to resolve the complaint at the first point of contact. It also enables the Council to capture in one place a picture of the feedback on the Council's services to provide data for review and to feed into lessons learned for service improvement.

The culture of our society suggests an expectation of instantaneous response. Whilst emails are a quick means of communication, they are not always so well thought out as completing a tailored form that enables the customer to give thought to the crux of the matter and what resolution they are looking for, or the discipline of writing a letter. Emails are often used to express how the incident has made the customer feel and followed up whilst the service is looking into what may be done as a resolution. Multiple exchanges of emails not allowing the service the opportunity to investigate fully only exacerbate ill-feeling and detract from the service resolution. Therefore e mails will not be accepted as a vehicle for conveying a complaint or for continuing through complaint stages. Following the initial response, should the complainant wish to escalate the complaint, any subsequent stages will follow the route of the Council's Stage 2 on-line complaint resolution form.

5.6 Complaints that fall outside the Council's Complaints Policy and Procedure

Certain types of complaint will not be dealt with through the Council's Complaints Policy and Procedure because there are other processes more suitable for dealing with them, or because they are outside the Council's control. This includes:

- matters of law or central government procedure;
- complaints from staff about personnel matters, including appointments, dismissals, pay, pensions and discipline;
- complaints where the customer or the Council has started (not threatened) legal proceedings;
- complaints about the merits of an insurance claim, or matters that would be more appropriately considered by an insurer;
- complaints under statutory obligations (e.g. children and adults social care);
- requests for Council services;
- complaints that have already been decided by a court, independent tribunal, Local Government and Social Care Ombudsman or Housing Ombudsman ruling;
- complaints that are simply criticisms or disagreement with the Council's Policy and Procedure or decisions;
- services for which there are alternative statutory appeal or tribunal processes, including:
 - appeals against housing allocation decisions;
 - appeals against the refusal of planning permission;
 - appeals against Statutory Notices;
 - appeals against Penalty Charge Notices (PCNs) or Moving Traffic Contraventions (MTCs);
 - school admission or exclusion appeals;
 - Special Educational Needs Tribunals;
 - Housing Benefit appeals;
 - appeals against business rate assessment.

If there is any doubt about whether the complaint should be accepted, the customer should be advised to submit the complaint to the Council for consideration.

If the Council receives a complaint and decides not to accept it on the above grounds, the customer will be told why and, where possible, an alternative route suggested.

5.7 Time limits

It is far easier to find out what happened and to put things right if complaints are received at the time. As time passes it becomes more difficult to investigate events fairly and fully – people's memories fade, staff who were closely involved may have left the Council, or records may no longer be available.

For these reasons, the Council will normally only accept complaints made within twelve months of the incident that led to the complaint. However, if exceptional circumstances are provided by the complainant for the delay in submitting the complaint, the Council may make a discretionary decision to consider the complaint providing supporting evidence is received.

If the Council receives a complaint and decides not to accept it on the above grounds the customer should be told why.

6. THE COMPLAINTS POLICY AND PROCEDURE

The Council should seek to resolve complaints at the earliest opportunity. Where possible, prior to implementing the formal complaints Policy and Procedure, every attempt should be made to deal with issues quickly and informally, at the point of service delivery.

Some complaints received by the Council have to be dealt with under a statutory process and will not follow the steps set out below; these complaints normally concern the delivery of adult's or children's social care services.

6.1 Stage 1

If a concern cannot be resolved to a customer's satisfaction at the point of service delivery, or if the customer wishes to make a complaint in any event, a formal complaint must be recorded.

The Council will nominate an appropriate officer to respond to the complaint at this stage; the appointment should take into account the seriousness and the nature of the complaint. An officer, against whom a complaint is personally directed, should not respond to a complaint. If the complaint concerns the service manager, a more senior manager should respond.

Complaints should be acknowledged within three working days (via email if in response to the completed web form or letter in response to a letter), and a full written reply sent within 10 working days.

The Council's aim is to resolve as many complaints as possible to the customer's satisfaction at this stage. This means that responses must be open and honest, admitting fault when things have gone wrong and setting out a package of measures to put things right which does not necessarily mean an acceptance of liability.

6.2 Stage 2

If the customer is dissatisfied with the outcome of the Stage 1 investigation, there is opportunity to request the complaint be reviewed by the Chief Executive, which is Stage 2 of the Complaints Policy and Procedure.

A request should be made through the Stage 2 on-line complaint form stating clearly why the complaint hasn't been dealt with to the customer's satisfaction and what is expected by way of redress.

The request should be acknowledged within three working days and a full written reply sent within 25 working days.

If the decision is taken, by the Chief Executive, not to escalate the complaint to Stage 2 of the Policy and Procedure, the customer will be advised the reason for this and that they have exhausted the Council's process and details of the Local Government Ombudsman and Social Care Ombudsman or Housing Ombudsman will be given.

6.3 Stage 3

If the customer is dissatisfied with the outcome of the Stage 2 investigation, they may request the complaint be reviewed by members of the Adjudication and Review Committee. An informal Member Review Panel will be arranged to determine whether the case can be decided at that point or whether a full hearing should be conveyed.

Escalation to Stage 3 of the process is not automatic; the decision on escalation will be taken by the Chair of the Adjudication and Review Committee.

The clear expectation of the customer is sought on the Stage 3 complaint form and what redress is expected. This request will be acknowledged and if a Member Review Panel has heard the case, a full written reply sent within 30 working days.

The customer will be made aware at the conclusion of Stage 3 that the complaint has exhausted the Council's complaints Policy and Procedure and be given the contact details of the Local Government and Social Care Ombudsman or Housing Ombudsman, where they may further escalate the complaint, if desired.

6.4 Acknowledging complaints

All acknowledgements should be sent within three working days and include:

- a reference (ENQ) number;
- a brief summary of the complaint as the Council understands it;
- the "no later than" date a response should be provided to the customer;
- contact details of the sender;
- a link to the Council's website where the full Policy and Procedure may be found.

6.5 Responding to a complaint in full

All complaints will be responded to within the deadline for each stage. Stage 1 is ten working days and Stage 2 twenty five days. Responses will be clear and concise; honest and accurate; professional and courteous; jargon free, in plain English; and free from spelling and grammatical errors.

All responses to complaints which are upheld or partially upheld should give :

- an explanation of what happened and why things went wrong;
- an apology for service failures;
- details of the corrective action to be taken;
- the redress expected by the customer for the failure or explanation why this isn't appropriate;
- clear instructions about anything the customer needs to do;
- the name of the officer responsible for ensuring that action is taken and their contact details;
- the timescale within which the action will be taken;
- where appropriate, details of the measures to be taken to prevent a recurrence of the problem;

Where a complaint is not upheld the response should provide:

- background information relevant to the complaint;
- an explanation of the decision;
- a link to our website where the complaints Policy and Procedure is found.

6.6 Right to escalation

The customer has the right to request the complaint be escalated if they remain dissatisfied. The customer will need to:

- (a) complete the Stage 2 form providing details of **why** they remain dissatisfied; and
- (b) indicate what they would like the Council to do to put the matter right'
- (c) submit the response within **30 working days** from the date of the full response. .

If a customer continues to express their dissatisfaction, but does not provide specific reasons as to why they are not satisfied by the Council's response, in some circumstances the complaint will not be escalated to the next stage. This process is used to ensure that complaints are only escalated when necessary and not just because a complainant continues to express their dissatisfaction. For example, when a customer does not agree with the outcome of the complaint but can provide no further evidence to support their complaint. The decision on whether to escalate or not, is taken by the "owner" of the next stage in the Policy and Procedure, i.e. the

Chief Executive for Stage 2 or the Chair of Adjudication and Review Committee for Stage 3 and will be explained clearly to the customer.

If the customer remains dissatisfied following the response to a Stage 2 complaint they will need to:

- a) complete the Stage 3 form providing details of **why** they remain dissatisfied; and
- b) what they would like to achieve as an outcome from a Member Review Panel;
- c) submit the response within **30 working days** of the date of the full response letter.

6.7 Local Government and Social Care Ombudsman and the Housing Ombudsman

The Local Government and Social Care Ombudsman and the Housing Ombudsman consider complaints about public bodies, including local authorities. The Ombudsman investigates complaints about: poor service; failure to provide a service and administrative failure. The Housing Ombudsman's primary role is as a mediator between landlord and tenant.

In most cases, the Ombudsman will normally only consider complaints if the issues of concern have exhausted the stages of the Council's own Complaints Policy and Procedure. However, the Ombudsman has discretion to investigate a complaint prior to the Council conducting its own investigation.

The relevant Director, Assistant Director and Chief Executive will be notified of any complaint that is being considered by an Ombudsman, as soon as the Council is notified.

6.8 Timescales

The timescales for response are illustrated below:

Acknowledgements:	3 working days maximum
Stage 1:	10 working days
Stage 2:	25 working days
Stage 3:	30 working days

The timescales start from the date the complaint was received **by the Council**, not by the department against which the complaint is made, if this is later.

6.9 Extending response timescales

The Council always tries to keep to our published timescales for dealing with complaints. Sometimes investigations take longer, perhaps because of the need to get information or the complaint is unusually complex.

In certain cases, when a complaint is complex, it may be necessary to extend the timescales set out in this Policy and Procedure. If this is the case, the complainant **must** be informed of the reason why timescales cannot be met and also informed

when they should receive a full response. These exceptions should be authorised by a Group Manager or Assistant Director at Stage 1 or Chief Executive at Stage 2. Notification should be sent to the customer at the first possible opportunity.

6.10 Complaints spanning more than one service area

In the event that a complaint involves more than one service, a co-ordinated single response will be sent to the customer by the lead service determined by the largest portion or most serious aspect of the complaint.

The customer will be informed which service will be responding to them on behalf of the Council in the acknowledgement to their complaint.

This is also the case when a complaint spans more than one agency, ie Health and Social Services.

6.11 Complaints by Members of Parliament and Councillors on behalf of constituents

Complaints on behalf of constituents are dealt with under this Policy and Procedure. There is a separate process for dealing with service requests and enquiries from MPs and Members of the Council. Complaints raised by Councillors and MPs on behalf of their constituents will be raised in the normal way with the response being made to the originator, where appropriate, or if the nature of the complaint is personal the response will be directed back to the customer with the Councillor or MP, apprised that a response has been sent.

7. RIGHTS AND RESPONSIBILITIES

7.1 Customer rights

Our customers have the right to:

- be treated with respect and courtesy at all times;
- have a friend or other representative help them with their complaint, provided the relevant authority has been provided to the Council;
- be kept informed about the progress of their complaint(s); and
- receive an apology if a complaint is partially or fully upheld.

7.2 Staff rights

Our staff have the right to:

- be treated with respect and courtesy at all times;
- time to respond to the initial complaint before receiving any follow up issue; and

- support and training that enables them to handle and resolve complaints in an efficient and empathetic manner.

7.3 Responsibilities

The Council's priority is for the effective handling of complaints at, or as close to, frontline staff as possible, or by a local manager. Receiving complaints is a means to gauge how well Council services are performing and how we may make improvements. The effective handling of complaints is crucial to maintain the Council's reputation and to make good use of customer feedback. As such, staff will receive the necessary support and guidance to provide good customer service and to handle complaints with empathy and professionalism.

7.4 Unacceptable behaviour by complainants

People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint coming into the Council.

As a Council we do not view behaviour as unacceptable just because a claimant is forceful or determined, however the actions of complainants who are angry, demanding, persistent or rude may result in unreasonable demands on the Council and unacceptable behaviour towards the Council's staff. In tandem with the Council's responsibility to provide services is the duty of care towards its staff.

In such exceptional circumstances, the Council has the right to specify how the individual complaint will be handled and how future contact from the complainant will be permitted. A separate procedure on handling Unreasonably and Persistent Complainants and Vexatious Information Requests details how and under what circumstances complaints will not be answered. This is attached to this Policy and Procedure as Appendix 1.

8. PERFORMANCE AND MONITORING

The following information will be captured, where possible, on the Council's complaint management system, for every complaint:

- date of receipt;
- name, address and contact details of the customer;
- a copy of the acknowledgement and all other documents as they are sent;
- notes of all contact with the customer;
- details of the resolution (if a closing letter is not appropriate);
- closing date.

This information will be captured at each stage of the complaint and it is the responsibility of the officer dealing with each stage to ensure the records are complete and up-to-date.

This will be used to produce management information to monitor service performance, highlight areas of service failure and gaps in provision and feed into the processes for identifying areas for service improvement.

The information will be reported, in the appropriate format, to a range of key stakeholders within the Council against their targets.

8.1 Performance Targets and indicators

The performance targets for the Council's complaints process are illustrated below:

	Frequency			Who reported to		TARGET
	Monthly	Quarterly	Annually	Staff	Members	
Number of complaints received	✓	✓	✓	✓	✓	
% of Stage 1 corporate complaints completed within 10 days	✓	✓	✓	✓	✓	95%
% of Stage 2 corporate complaints completed within 25 days	✓	✓	✓	✓	✓	95%
%age escalated to Stage 2		✓	✓		✓	<10%
%age escalated to Stage 3 (from S2)		✓	✓		✓	<20%
% of Stage 3 corporate complaints completed within 30 working days	✓	✓	✓	✓	✓	95%
Finding of the various Ombudsman investigations (in brief)		✓	✓		✓	

In addition, an annual report on the Council's performance on complaint handling will be available on the Council's website.

8.2 Publishing complaints data

The Complaint Policy and Procedure is published on the Council's website and in leaflets. All publicity materials for the Policy and Procedure will be presented in plain English and made available in other languages and formats upon request.

The Council's performance on complaints is published quarterly in reports to Adjudication & Review Committee, which are public documents available on the Council's website.

9. RELEVANT LEGISLATION

There are a number of key areas of legislation that the Council must adhere to in the course of dealing with complaints.

9.1 General Data Protection Regulations

The General Data Protection Regulations provides protection for personal information and customer's ability to access the information held about them, the general principles are:

- that information held will be processed fairly, lawfully and in a transparent manner;
- that information is collected for specific, explicit and legitimate purposes;
- that information is adequate, relevant and limited to what is necessary;
- that information held is accurate and where necessary, kept up to date;
- that information is retained for only as long as necessary
- that information is processed securely, protected against unlawful or unauthorised processing and against accident loss, destruction or damage.

The Council will ensure that the principles of the General Data Protection Regulations are adhered to.

9.2 Freedom of Information

The Freedom of Information Act 2000 gives people the right to access information held by public authorities. The Act ensures that, subject to certain limited exemptions, anyone can receive information that they request from a public authority. The Council is committed to the principles of openness, transparency and accountability in its activities and supports the right of any person to seek information under the Act.

10. Applicability

This Policy and Procedure is applicable to customers, residents, businesses, Councillors (on behalf of their constituents) and MPs (on behalf of their constituents). It is also relevant to all Council employees who may receive a complaint about their service by the community or a member of staff.

11. Ownership and authorisation

The Policy and Procedure is led by the Chief Executive's office. The authorising body is the Senior Leadership Team, Leader of the Council, Lead Member for Customer Services and with engagement from the Chair of Adjudication and Review Committee and the Chair of Overview and Scrutiny Committee.

12. Dissemination and communication

The Policy and Procedure is published on the Council's website and disseminated to staff through Management Teams, the Council's Core Brief mechanism and the Forum of Complaint Owners. Regular meetings of complaint owners will take place to update and apprise staff on good practice and to ensure continued focus on customer care and quality of complaint responses.

13. Monitoring and review

This Policy and Procedure will be reviewed every three years by the Chief Executive's office. This will consider the quality of Council responses, percentage of complaints resolved within timescale, percentage of those escalated through the Policy and Procedure and how complaints are received and dealt with by services.

October 2018

Procedure for dealing with Unreasonably Persistent Complainants and Vexatious Information Requests

Introduction

The Council's Corporate Complaint Policy and Procedure aims to provide our customers with a fair, objective and consistent process that will resolve complaints as quickly as possible. If customers remain dissatisfied with the outcome they can appeal against our decision and take matters further. However, the Council also has an obligation to use resources efficiently and effectively and there may be occasions when senior management decide that a complainant is demonstrating behaviour which is unreasonably persistent or unacceptable. The Council also has a duty of care for its staff.

There are also occasions when requests for information may be considered vexatious because they are repeated for no good reason or cause undue time commitment and stress on Council resources, for little purpose.

Purpose of this procedure

The purpose of this procedure is to:

- Define and explain what we consider to be unreasonable customer behaviour and an unreasonably persistent complainant
- Define and explain what we consider to be vexatious requests for information
- Explain the process to follow when dealing with unreasonable behaviour and vexatious requests for information.

What is unreasonable customer behaviour?

The Council defines unreasonable behaviour as:

Unreasonable and unreasonably persistent complainants may be justified in

"Behaviour which, because of the nature or frequency of a customer's contact with the Council, negatively impacts on our ability to deal effectively with their or other people's complaints."

complaining or have a genuine grievance but be pursuing them in inappropriate

ways, or they may be intent on pursuing complaints which appear to have no substance, or which have already been investigated and determined. Their contact with the Council may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all.

Behaviour which may lead to a complaint being considered as unreasonable may include some of the issues listed below (although this list is not exhaustive):

- a) Refusing to specify the grounds for their complaint; offering evidential information to support the complaint which is not then provided, or changing the substance of the complaint whilst the complaint is under investigation;
- b) Periodically writing lengthy scripts with legal or technical quotes but without adequately explaining in plain language what the customer expects as an outcome and refusing to clarify on request;
- c) Withholding evidence for substantiating a complaint at early stages in the procedure that are later produced when the complaint is accepted for escalation or review;
- d) Introducing irrelevant or trivial issues into the complaint or raising a large number of detailed but unimportant questions and insisting they are answered in detail;
- e) Refusing to accept that aspects of the complaint are not within scope of the procedure (for example when another route, such as an appeal process, is open to them) or insisting complaints are dealt with in ways not compatible with the complaints procedure;
- f) Refusing to co-operate with the complaints investigation whilst still wishing their complaint to be resolved;
- g) Making unsupported complaints against staff dealing with the complaint and asking for them to be replaced or a more senior officer deal with the complaint;
- h) Pursing complaints through a "scatter-gun" approach, contacting different staff about the same or similar issues, including engaging councillors, Members of Parliament etc. in addition to their contact with the Council when the complaints procedure is being enacted;
- i) Making unnecessary demands on staff time by excessive contact by e mail, telephone, through members of staff or lengthy complex letters requiring an immediate response;
- j) Submitting repeated requests, during or after the process has been completed, about the same or very similar issues;
- k) Persistent contact about issues which are not service failure but which cause concern and for which the Council has acted appropriately. For example persistent fly tipping or parking problems where the Council has explained what action is and will be taken although may not be completely eradicating or resolving the issue;
- l) Denying receiving an adequate response because the answer is not what the customer wants;
- m) Refusing to engage with the Council through on-line means despite having the ability and knowledge to do so but to persistently e mail many staff on differing minor matters that causes maximum contact and disruption to their daily duties;
- n) Being abusive, insulting, aggressive or personally derogatory about staff.

What is a vexatious request?

It is important to remember that section 14(1) of the Freedom of Information Act which relates to vexatious requests can only be applied to the request itself, not the individual who submits it. The Council has determined that this approach should be applied to all requests for information, whether or not it has come through the FOI route. Council officers cannot, therefore, refuse a request on the grounds that the requestor himself/herself is considered to be vexatious. Similarly, the Council cannot simply refuse a new request solely on the basis that it has classified previous requests from the same individual as vexatious.

The Council defines a vexatious request as being:

A vexatious request may include one or two individual requests for information, or

“A request that is likely to cause distress, disruption or irritation, without any proper or justified cause.”

may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute (potentially as part of the Council's Corporate Complaints procedure) or is the latest in a lengthy series of overlapping requests.

However the Council will not automatically refuse a request simply because it is made in the context of a dispute: each request will be considered on its own merit. The Council will ensure we consider whether the request, not the requestor, is vexatious with our focus ultimately on their right to know the information requested.

Where a request is considered vexatious the Council may make the decision not to provide the information referring to the relevant guidance from the Information Commissioner on vexatious requests.

Examples of vexatious information requests

The list below is not exhaustive and it is likely that more than one example is needed to justify consideration as vexatious.

- a) Submission of obsessive requests with very high volume and frequency of correspondence;
- b) Requests for information the requestor has already seen or clear intention to re-open issues that have already been considered;

- c) Where complying with the request would impose significant burden on the Council and negatively impact on our service to others. For example when considerable time has been given responding to requests for information by way of the Corporate Complaints procedure and a subsequent request would exceed the appropriate time limit (section 12 exemption to the Freedom of Information Act);
- d) Where the requestor states the purpose is to cause maximum inconvenience for a perceived grievance;
- e) Where the request lacks any serious purpose or value;
- f) Harassing the Council. This could include very high volume and frequency of correspondence or mingling requests with accusations and complaints.

Resolving and managing unreasonably persistent complainants and vexatious information requests

Where officers identify that they may be dealing with an unreasonably persistent complainant and / or vexatious requests for information, they should consider the following courses of action in the first instance:

1. Writing to the complainant requiring them to only make contact through a third party, for example an advocate, solicitor or friend acting on their behalf;
2. Writing to the complainant placing limits on the number or contacts with staff;
3. Writing to the complainant offering a restricted time slot for any necessary calls;
4. Writing to the complainant limiting them access to one contact person and/or one method of contact;
5. Consider the totality of the customer's contact with the Council on the subject – including the numbers and scope of any Freedom of Information requests.

If the above possible actions are believed to be pointless or counterproductive, or they do not improve the situation if they are enacted and if the officer believes the complainant is continuing to act in an unreasonably persistent or vexatious manner, the officer should refer the case to their Assistant Director in the first instance. If the Assistant Director believes that the complainant is not behaving in an unreasonably persistent manner or has not submitted a vexatious information request, the officer will be advised of this and should continue to consider the complaint in line with the Council's procedures and legislation. If the Assistant Director believes the complainant is behaving in an unreasonably persistent way or has submitted a vexatious information request they should refer the matter to a member of the Senior Leadership Team through the Chief Executive's office. This office will determine whether:

1. The complaint is being, or has been handled effectively;
2. The Council's procedures have been followed;
3. The decisions reached are considered to be the right ones;
4. All issues raised have been addressed;
5. Communication with the complainant has been appropriate and adequate;

6. The complainant is not now providing any significant new information that might affect the Council's view on the complaint.

If satisfied on these points, consideration will first be given to whether there are still avenues open to resolve the complaint. For example:

- If the complainant has contacted more than one service area, consider a strategy meeting to understand the breadth of the issues and agree a joint approach;
- Has a meeting been considered with the complainant with an officer of sufficient seniority?
- Could the complainant have special needs that may need the engagement of an advocate or support by other Council services.

If the above avenues have already been explored or are not open to resolve the complaint and the Chief Executive's office determine that the Assistant Director and / or relevant officer cannot take any further action, the office will then determine if, in their view, the behaviour of the complainant is unreasonably persistent and / or vexatious.

The Chief Executive's office will inform the Assistant Director and the officer of their decision and if it is confirmed that the complainant has been acting in an unreasonably persistent or vexatious manner the officer will be advised of one of the following actions to take:

1. Write to the complainant to warn them that if they persist with their unreasonable behaviour **and / or submitting vexatious information requests**, the Council may not respond to them on this subject in the future;
2. Write to the complainant confirming that any future correspondence on the matter will not be answered **and** the Council will no longer respond to him or her on the issues raised in their complaint(s) **and/or requests for information**.
3. No longer respond to the complainant on that, or similar issues.

When the relevant officer informs any complainant who has been determined to be behaving in an unreasonably persistent or vexatious manner – see points (i) and (ii) above - they should also advise the complainant they have a right of appeal against this determination and that they should write to the Chief Executive's office within 10 days to lodge that appeal.

Any appeals submitted by a complainant should be considered by a member of the Senior Leadership Team who will make a final decision. That decision will be reported back to the officer and communicated to the complainant by the Chief Executive's office within 28 days. Sometimes complainants use the access to information route through a Freedom of Information Act (FOI) or General Data Protection Regulations (GDPR) request. This avenue may be used by the minority to cause maximum disruption to the Council with little purpose other than to demand attention, because of a perceived or real grievance. Whilst the Council has a duty to

be transparent and provide information, it also has a duty of care to its staff and to other customers for service delivery. Both of these issues need to be fully considered prior to any action. This procedure, therefore, covers both complaints and requests for information through the FOI or GDPR route.

Considerations before acting

The Council recognises that the decision to classify someone's behaviour as persistently unreasonable or to classify a request as vexatious could have serious consequences for the individual, including restricting access to services.

Before deciding to apply any restrictions, the Council will ensure that:

- The complaint or request for information has been dealt with properly and is in line with the relevant procedures and/or statutory guidelines;
- Every reasonable effort has been made to satisfy the request or resolve the complaint.

Review

When restrictions are in place, a review date will be set based on the circumstances of the case. The relevant Head of Service will consider whether the restrictions remain in place following the date of the review.

New Complaints or Requests

The Council will not ignore a complaint or service request from customers who has been classified as unreasonably persistent or vexatious.

New complaints or requests will be considered on their own merits and not be influenced by previous knowledge of the customer.

Referring cases to the Local Government and Social Care Ombudsman and Information Commissioner's Office

There may be circumstances where the relationship between the Council and complainant / customer has broken down to such an extent that resolution is not possible. In these circumstances it may be helpful to bring closure by referring the matter to either the Local Government and Social Care Ombudsman or the Information Commissioner's Office. Under these circumstances the Council will write to both the governing body and the complainant customer explaining our decision. It would be entirely at the discretion of the Local Government and Social Care Ombudsman or the Information Commissioner's Office whether or not to accept any referral.

Record Keeping

Records of decisions taken and the reasons for those decisions should be kept updated and be transparent to those individuals who have been classified as unreasonably persistent or vexatious. The records should be held within the Senior Leadership Team Support office and include:

- The name and address of the complainant / customer;
- Details of each information request that is classified vexatious;
- A summary of the complaint for which the complainant / customer was deemed unreasonably persistent;
- What restrictions have been put in place;
- When the restrictions are due for review and by whom.

The Council's Customer Relationship Management (CRM) system that manages complaints will have an indicator added to the relevant customer record to indicate that the individual has been classified as unreasonably persistent or vexatious. The record will be updated in line with any review carried out on the restrictions.

A copy of this procedure will be made available to any complainant customer who is classified as unreasonably persistent or whose request for information is deemed vexatious.

4th January 2016