

LANCASHIRE COMBINED FIRE AUTHORITY

Meeting to be held on Monday 20 June 2016

FORMAL POLICY ON DEALING WITH HABITUAL AND VEXATIOUS COMPLAINTS (Appendix 1 refers)

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Executive Summary

The Authority will recall that at the last CFA meeting held 15 February 2016, the Clerk and Monitoring Officer delivered a report concerning a complaint that had been addressed to the Chairman, which made a recommendation that the Authority fully endorsed.

The investigation concluded that the complaint has no merit. However it was also considered unacceptable that habitual and vexatious complainants continue to renew complaints and applications for information with regularity, with the purpose or effect of creating a significant burden on Lancashire Fire and Rescue Service (LFRS) and its staff. The consequential administrative burden of processing such complaints and requests has already placed significant stress and unnecessary work for the Officers and their support staff at LFRS.

This has necessitated the Service seeking to limit any further response.

The aim is to adopt a policy which is fair and proportionate, yet which will not prevent genuine complaints from being properly investigated and fair and equitable outcomes promulgated. In doing this some measure of support will be provided for those Officers and support staff currently dealing with malicious complaints.

Recommendation

The Authority is asked to note and endorse the report.

Information

The Officers of the Authority ensure compliance with our public sector duties including Freedom of Information requests and Data Protection Act requirements.

On occasions these obligations and our Public Complaints procedures have been used to pursue issues in a manner incompatible with the aims and purpose of the legislation.

Although the occasions are rare, the strain on the organisation has been significant at times. The proposed policy formalises the approach adopted by Officers in addressing these issues.

Business Risk

Given that the policy will be used to defend the Authority's position in refusing to engage with "vexatious" complainants who may pursue perceived entitlement to make applications

to the Authority under, e.g.: Freedom of Information or Data Protection Act legislation, there is a risk that such complaints will be elevated outside the Authority’s internal processes. The Authority may therefore be required to defend its position externally in processes governed by, for example; the Information Commissioner’s Office (“ICO”) or Local Authority Ombudsman. The exposure to risk can be minimised by virtue of the fact that in such cases the Authority will be given an opportunity by the external arbiter to provide comment with any supporting documentation and ultimately to review or even change its decision. At this point there should be a further assessment of the business and financial risk to the Authority of maintaining its position regarding a decision to declare the relevant complaint as vexatious. Such an assessment should also involve a review of the evidence which has given rise to the conclusion that such complaints are habitual or vexatious in accordance with the criteria set out in the policy.

Environmental Impact

None.

Equality and Diversity Implications

There is a minor risk that any habitual or vexatious complaints could be driven by mental impairment, with a correspondingly low risk that such impairment amounts to a disability, for which the Authority would be culpable, only if the complainant was an existing employee. In those circumstances the existence and application of the Policy would, in all likelihood consist of a proportionate means of achieving a legitimate aim, which would therefore be capable of rebuttal. Otherwise it is highly unlikely to conflict with the Authority’s public sector Equality duty.

HR Implications

The policy must not conflict with the Authority’s obligations under its own Whistle blowing policy, as this may cast doubt on the Authority’s compliance with a whistle blowing policy and obligations. However, given that such disclosures are to be made in good faith, not for personal gain and in the genuine public interest, there should in reality be no conflict or overlap, provided the complaints have been properly evaluated under the criteria outlined in the draft Habitual and Vexatious Complaints Policy.

Financial Implications

In the index example, above, involving the ICO could in theory give rise to a situation where the ICO makes a determination holding the Authority culpable. It has the power to impose fines, should the ICO apply to a court for certification that the Authority has failed to comply with a decision notice, an information notice or an enforcement notice. The matter would be dealt with thereafter as a civil contempt. It is highly unlikely that given the provision for review and conciliation that the Authority would be placed in such a situation and that any risk of such an outcome would occur in no more than 2-5% of any cases and such action could be mitigated whatever the circumstances if necessary.

Local Government (Access to Information) Act 1985

List of Background Papers

Paper	Date	Contact
Reason for inclusion in Part II, if appropriate:		