

Report to Cabinet

Subject: Review of Complaints Policies

Date: 8 December 2022

Author: Head of Corporate Governance and Customer Services

Wards Affected

All Wards

Purpose

To seek Member approval of updates to the Council's Complaints, Compliments and Comments Policy and approval of the Unacceptable Customer Behaviour Policy.

Key Decision

This is not a key decision.

Recommendation

THAT Cabinet:

- 1) Approves the amendments to the Council's Complaints, Compliments and Comments Policy at Appendix 1
- 2) Approves the Unacceptable Customer Behaviour Policy at Appendix 2

1 Background

1.1 At October's Cabinet meeting, as part of the annual complaints report, Members were advised that there had been an increase in customers contacting the Council who did have a complaint, but had expressed frustration and on occasion aggression towards members of staff. In addition, Members were advised that there had been two occasions where the Unreasonably Persistent Complainant's policy had been applied to customers to limit their contact with the Council. Members were advised that a review of the Council's Complaints, Compliments and Comments Policy and Unreasonably Persistent Complainant's Policy was underway to ensure the policies remained robust, ensure timescales for responses remained

achievable and ensure that for those officers handling complaints and customers generally, it was clear what level of conduct is expected from both officers and customers.

- 1.2 Nationally, the Institute of Customer Services have, since July 2020 been running a “Service with Respect” campaign to stop the abuse of frontline workers. In June 2022 section 156 of the Police Crime, Sentencing and Courts Act 2022 came into force which introduced a legislative requirement to treat assault against a person providing a public service, or providing services to the public as an aggravating factor when considering sentencing.
- 1.3 It was noted in the annual complaints report to Cabinet that complaint levels at the Council increased by 131 in 2020/21 and remained at this increased level in 2021/22. Whilst some of the increase in complaints were attributed to Covid 19, it is noticeable, following discussions with staff, that the tolerance levels of customers has reduced and that incidents of staff being verbally abused and disrespected has increased.
- 1.4 Of course the Council welcomes and encourages feedback from customers to ensure that services can improve and when the Council has got something wrong, appropriate steps need to be taken to address the matter. It is also recognised that customers have faced challenging times recently and wherever possible the Council offers support and assistance and understands when frustrations may arise. It is however important that staff are not subjected to behaviour from customers either through the complaints process or otherwise that impacts on staff health, safety and wellbeing. It is also important that staff and customers know how such behaviour will be managed and that the Council takes a zero tolerance to abuse and assault of its staff.
- 1.5 Currently, the Council has a Complaints, Compliments and Comments Policy which sets out the process for receiving and administering complaints by the Council. This has been reviewed and some minor amendments proposed to clarify what sort of complaints or challenge would be dealt with under the policy and which would fall outside, for example, an appeal of a planning decision or taxi licence application has its own process of challenge and would not fall under this policy. In addition, to ensure that responses to complaints are dealt with within reasonable timescales, additional wording has been introduced to reflect that complaints may take longer than 10 working days to respond to in exceptional circumstances, not just when the complaints are complex. Capacity is an issue in some departments and whilst staff endeavour to respond to complaints in a timely manner, sometimes, circumstances outside their control may mean the 10 day timescale cannot be adhered to, for example if a key staff member needed to provide a response is unavailable. Finally, in light of the proposal to introduce a new Unacceptable Customer Behaviour Policy which would incorporate the Unreasonably Persistent Complainant’s Policy, references to the latter policy within the Complaints, Compliments and Comments policy have been changed.

- 1.6 Whilst it is necessary to have a policy in respect of unreasonably persistent complainants, it is not always the case that a customer's behaviour is unreasonable as part of the complaints process. There are often occasions when customer's behaviour is persistent and unreasonable but they have no specific complaint. Also, there may be isolated interactions with the Council by customers which whilst not a complaint, are unacceptable in terms of how staff are treated. It is considered necessary to ensure that both customers and staff understand that unacceptable behaviour will not be tolerated by the Council and that staff understand what they can do if they are on the receiving end of unacceptable behaviour which is not directly linked to a complaint.
- 1.7 The Council currently operates an Employee Protection Register (EPR). This is a system whereby certain customers, or premises which may pose a risk to the health and safety of staff are recorded on a register with any appropriate measures imposed to protect those staff who may come into contact with that customer or premises. Each case will be considered on its own circumstances. The EPR is not engaged in every circumstance, for example a one off interaction with a customer on the telephone, where the customer is angry and abusive to staff, may not trigger the entry of those customer details on the EPR, however, staff should not have to suffer such behaviour and as such in order to ensure staff feel supported and have the tools to manage unacceptable behaviour, and to provide clarity to customers about what may happen if unacceptable behaviour is displayed, a new Unacceptable Behaviour Policy has been drafted and is shown at Appendix 2.
- 1.8 The Unacceptable Behaviour Policy provides definitions as to what is considered unacceptable behaviour from customers, it covers unacceptable behaviour from customers in the course of any interaction with the Council, as well as covering how the Council will manage unreasonably persistent complainants. Unacceptable behaviour is defined as follows:

Unacceptable behaviour is any behaviour which is damaging or has hurtful effects either physically or emotionally on other people or that leads to staff being afraid for their personal safety or mental wellbeing.

Examples of this sort of behaviour may include:

- *Verbal or written abuse including prejudice or discrimination*
- *Harassment and intimidation*
- *Bullying, behaviour*
- *Aggressive, malicious, or threatening behaviour*
- *Assault*
- *Injury caused by pets*
- *Threats of harm to staff or property*
- *Unreasonably persistent complainants*
- *Repeated contacts which are vexatious*

- 1.9 The Policy provides a clear process for staff and customers as to how unacceptable behaviour will be handled. Staff are encouraged to report the behaviour immediately to a Manager, the Manager will then investigate the incident. If the Manager considers that the customer behaviour is unacceptable and further action is necessary then the matter will be referred to the relevant Head of Service. The Head of Service in consultation with the Director will then impose any necessary steps to protect staff and prevent further incidents. The actions imposed may include any of the following:
- *Placing time limits on telephone conversations and personal contact.*
 - *Restricting the number of calls that will be taken (for example one call on a specified morning/ afternoon of any week).*
 - *Limiting the complainant to one access channel (telephone, letter, email etc) and/or requiring the complainant to communicate only with one named member of staff.*
 - *Managing contact with the help of an independent advocate.*
 - *Refusing the complainant access to the Council's premises or particular premises eg Leisure Centres.*
 - *Requiring any personal contacts to take place in the presence of a witness or be recorded.*
 - *Refusing to process further complaints about the same matter.*
 - *Where a decision on a complaint has been made – only acknowledging future correspondence or informing the complainant that future correspondence will be read and placed on file but not acknowledged. The complainant should be reminded of their right to refer the complaint to the Local Government and Social Care Ombudsman, or the Housing Ombudsman (if the complaint relates to Council in its capacity as a Residential Social Landlord).*
- 1.10 In relation to unreasonably persistent complainants, the Manager will investigate, and the customer should be warned that if their actions continue they could be considered to be unreasonably persistent under the policy. The Manager should present their findings of investigation to the Head of Service who will determine in consultation with the Director, whether the complainant is unreasonably persistent and what actions should be imposed if any. The actions are as outlined in paragraph 1.9 above.
- 1.11 In all instances, the customer may be referred for inclusion on the EPR. Also, in all instances, the customer will be advised fully for the reasons for any decision and be given the right to have any decision reviewed by a Director. Also, any actions taken in relation to the customer must be kept under regular review.
- 1.12 The new Unacceptable Behaviour Policy will provide clarity for staff and customers as to how unacceptable behaviour will be managed and what may amount to unacceptable behaviour.

- 1.13 The updated Complaint, Compliments and Comments Policy and the Unacceptable Customer Behaviour policy was launched for consultation with all staff during Customer Services Week in October. A number of comments were received from staff. Generally staff were supportive of clarity around the process for dealing with unacceptable customer behaviour. There were some minor amendments suggested to numbering of stages and formatting of both policies which have been taken into account.
- 1.14 It should be noted that any actions taken to restrict a customer's interaction with the Council will be proportionate to the behaviours displayed, the risk to staff and the needs of the customer.

2 Proposal

- 2.1 It is proposed that Cabinet approves the amendments to the Council's Complaints, Compliments and Comments Policy.
- 2.2 It is proposed that Cabinet approve the new Unacceptable Customer Behaviour Policy. If approved, appropriate guidance will be given to staff as to how the policy is applied.

3 Alternative Options

- 3.1 Cabinet could determine not to approve changes in the current policy and determine that no additional policy is required in relation to Unacceptable Customer Behaviour. The changes proposed to the complaint's policy are relatively minor in nature and are made to ensure the policy remains up to date and is clear. The Unacceptable Behaviour Policy is considered necessary to fill a potential gap in policy and process for managing customers who may not be unreasonably persistent complainants, but whose behaviour during interactions with the council is unacceptable. Whilst there is an Employee Protection Register in place, the Unacceptable Customer Behaviour Policy provides clarity for staff and customers as to what behaviour will not be tolerated.

4 Financial Implications

- 4.1 In terms of the financial implications, whilst no specific figures are provided, there is an impact across the Council on capacity, when resources are diverted to dealing with persistent complainants and unacceptable customer behaviour. In addition, there is a risk of time lost by staff whose mental and or physical health is impacted as a result of unacceptable behaviour from customers.

5 Legal Implications

- 5.1 The Council have a complaints' process to enable effective management of complaints, the Local Government and Social Care Ombudsman will only consider complaints where they have been through the Council's complaints process and that process should be clear for customers.
- 5.2 Whilst there is no statutory requirement to have an Unacceptable Customer Behaviour Policy, as an employer, the Council has statutory responsibilities under the Health and Safety at Work Act 1974 to staff and customers to minimise risk of harm. This policy provides a clear framework for staff as to how unacceptable customer behaviour should be managed whilst balancing the needs of the customer to access services.

6 Equalities Implications

- 6.1 The Council's Complaints process is designed to enable accessibility for all as complaints are invited by a variety of methods, including; by telephone, in writing, by email, via a councillor, in person and online. In addition, it is recognised that the Council's customers may represent all protected characteristics set out in the Equality Act. Customer Services staff have received training specifically in relation to customers experiencing mental health conditions and how to manage interactions with those customers. It is recognised that there may be an impact on customers whose behaviour is affected by a mental health condition and this has been mitigated through training and the Council's policy in respect of reasonable adjustments. Every incident reported as unacceptable customer behaviour will be investigated thoroughly and the policy provides a clear process for decision making and route for review. Any equality implications relating to specific incidents of unacceptable behaviour will be considered on a case by case basis.

7 Carbon Reduction/Sustainability Implications

- 7.1 There are no carbon reduction/sustainability implications arising from this report.

8 Appendices

- 8.1 Appendix 1 – Amendments to the Council's Complaint, Compliments and Comments Policy shown in tracked changes.

Appendix 2 – Unacceptable Customer Behaviour Policy.

9 Background Papers

- 9.1 None

10 Reasons for Recommendations

- 10.1 To ensure robust complaints processes and to ensure that staff and customers are clear as to the Council's approach to managing unacceptable behaviour from customers.

Statutory Officer approval

Approved by:

Date:

On behalf of the Chief Financial Officer

Approved by:

Date:

On behalf of the Monitoring Officer