

Name of meeting: Cabinet

Date: 17th October 2017

Title of report: Reasonable Behaviour Policy

Purpose of report:

‘To seek support and approval for the Council’s new Reasonable Behaviour Policy’

Key Decision - Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Key Decision - Is it in the Council's Forward Plan (key decisions and private reports?)	No
The Decision - Is it eligible for call in by Scrutiny?	Yes
Date signed off by <u>Director</u> & name	Chief Executive
Is it also signed off by the Service Director - Finance, IT and Transactional Services?	
Is it also signed off by the Service Director - Legal, Governance & Commissioning?	Yes
Cabinet member portfolio	Leader of the Council - Cllr David Sheard Deputy Leader of the Council - Cllr Shabir Pandor

Electoral wards affected: All

Ward councillors consulted: None

Public or private: Public

1. Summary

Kirklees Council is committed to providing a fair, consistent and accessible service for all our residents and the people we deal with. We feel they have a right to be heard, understood and respected, across a wide variety of forums and mediums. In return, the Council expects its employees and councillors to be respectful and in turn be treated in a respectful manner.

Unfortunately in a small number of cases these standards are not adhered to. Often, the actions of some individuals result in unreasonable demands that could affect the service we provide to others (because the demands made are disproportionate to the matter causing them concern which leads to extra time being taken by staff to resolve

or investigate the complaint), or communicate with us in a manner which causes unreasonable offence and upset to our staff and councillors.

After informal discussions with Cabinet, officers were asked to look at developing a clear policy about unreasonable behaviour and to start to take a much more proactive and robust response in identifying such actions and in how these behaviours / cases are dealt with. Whilst it is understood that people sometimes get frustrated or become disappointed when we cannot offer the outcome they wish; we will no longer tolerate behaviour which is deemed unacceptable, threatening, abusive or unreasonably persistent and will take a strong line where actions contravene this policy.

The Council will have a new start in terms of dealing with vexatious individuals and will take a more proactive approach to managing behaviour in the future.

The aim of the policy is to help residents, councillors and staff understand what we mean by unreasonable behaviour and explain how the council manages such cases. It includes examples of said behaviour and sets out a series of measures the council will take to limit the impact and try to resolve the matter.

The scope of this policy is widespread; it is applicable in all settings including formal meetings and appointments, public meetings, telephone calls, written correspondence and social media

We are also looking at our complaints procedures, the way we manage meetings and interchange with individuals in the above settings. We will provide guidance and help to members of staff and councillors about the impact of this policy and what to do in the event that someone behaves unreasonably.

2. Information required to take a decision

The Council already have a robust formal complaints procedure in place and are able to deal with the numerous issues that come our way. However, we do not have anything in place that specifically sets out the type of behaviour or actions we consider unacceptable or how we formally expect staff to deal with such incidents.

The objective of this policy is to readdress the current situation where we have a number of individuals who constantly display behaviour that is unacceptable and affects service delivery for others. The Policy aims to manage the behaviour and expectations of those individuals whilst supporting staff in dealing with the situation

3. Implications for the Council

Without such a policy we are hindering how we deal with cases of unreasonable behaviour and are not supporting staff and councillors who have to deal with such incidents. The implications of an individual's unreasonable behaviour is widespread including reducing a service's ability to deliver to other residents, causing distress and upset to staff or councillors, spending unnecessary time on issues that have previously been fully addressed and preventing officers from doing their job.

4. Consultees and their opinions

n/a

5. **Next steps**

Once approved, the policy will be published on the council's website. There will also be further guidance and training developed for both staff and councillors about the policy and its impact on their work/ activities.

6. **Officer recommendations and reasons**

For Cabinet to:

- Support and approve the new Reasonable Behaviour Policy
- Recommend that the policy be reported to Council for information and endorsement by all members

7. **Cabinet portfolio holder's recommendations**

Cllrs David Sheard and Shabir Pandor recommend that the policy is approved and taken forward to Full Council.

8. **Contact officer**

Chris Read, Corporate Customer Standards Officer
Email: chris.read@kirklees.gov.uk

Nick Howe, Corporate Policy Officer, Policy Unit
Email: nick.howe@kirklees.gov.uk

Alun Ireland, Communications & Marketing Team Manager
Email: alun.ireland@kirklees.gov.uk

9. **Background Papers and History of Decisions**

N/A

10. **Service Director responsible**

Julie Muscroft; Legal, Governance & Commissioning

Kirklees Council's Reasonable Behaviour Policy

September 2017

Introduction

Kirklees Council is committed to providing a fair, consistent and accessible service for all our residents. We feel they have a right to be heard, understood and respected.

Occasionally the behaviour or actions of individuals makes it very difficult for us to help or to respond to their points, issues or complaints. In a small number of cases the actions of certain persons results in unreasonable demands that affect the service we provide to others, or communicate with us in a manner which causes offence and upset to our staff. The Council will no longer tolerate poor behaviour and will take a much more proactive response in identifying such actions and the how these cases are dealt with.

Kirklees Council expects its employees and councillors to be respectful and in turn be treated in a respectful manner. Whilst it is understood that people sometimes get frustrated or become disappointed when we cannot offer the outcome they wish; we will no longer tolerate behaviour which is deemed unacceptable, threatening, abusive or unreasonably persistent and will take a strong line where actions contravene this policy.

Purpose

The aim of this policy is to set out what our understanding is of unreasonable behaviour and provide a clear procedure for how we will deal with individuals who display such actions. It will strengthen the existing complaints procedure and ensure the Council responds more assertively to poor behaviour.

It replaces the 'Unreasonable Persistent Complainant Policy' and emphasises a more assertive and immediate approach for dealing with individuals who display unreasonable behaviour.

The policy will help employees, members of the council and residents to understand our approach to managing those individuals whose actions or behaviour are considered unacceptable and are either having a harmful impact on our staff or our ability to provide a consistent level of service to others. It will enable challenging situations to be dealt with more quickly and prevent issues prolonging.

It includes examples of what we mean by unreasonable behaviour and sets out a series of measures the council will take to limit the impact and resolve the matter. The scope of this policy is widespread; it is applicable in all settings including formal meetings and appointments, public meetings, telephone calls, written correspondence and social media.

Background

Individuals are entitled to share their views on how the council should operate or on wider aspects of how the council is managed and run. They may attend public meetings to express their views, become involved with the decision making processes or comment on social media. They are also entitled to make complaints about services they receive. The council has a robust and formal complaints procedure (available at www.kirklees.gov.uk/complaints). Residents can also contact the council's Audit Department or Customer Standards Officer confidentially if they have any evidence of impropriety.

However, if people pursue their concerns or behave in an unreasonable way then the council may have to modify the way it responds to that individual. If this behaviour continues then the council will take a more proactive and assertive approach to managing such behaviour in the future.

Examples of unreasonable behaviour and actions

The following list offers examples of actions and behaviours which can be deemed as unreasonable and/or unreasonably persistent. It is by no means exhaustive but is designed to give an indication of the type of behaviour that is considered unacceptable. For further advice, please contact the Corporate Customer Standards Officer.

- Shouting and/or behaving in an aggressive or threatening way (*To be clear, an individual does not have to make explicit threats or physically swear before officers might conclude that their behaviour is inappropriate*)
- Making physical threats to staff; e.g. threatening violence, to physically follow staff, stalking staff on social media, finding out personal information about staff, taking images and recordings when requested not to etc. (the council has a separate advice note on staff being recorded)
- Attempting to belittle staff members; e.g. making unsubstantiated comments about an officer's competence to a series of senior managers, making comments about physical appearance or attributes, referring to unrelated historic cases, threatening to put individual names into the public domain (press/blog/social media etc)
- Disrupting council business at meetings and ignoring set meeting processes and agendas
- Making unsubstantiated and potentially libellous or slanderous comments about the service or council e.g. accusations of fraud, personal financial gain, inappropriate relationships, membership of private organisations etc
- Progressing an aggressive campaign against the council and its officers when in pursuit of a personal beneficial outcome
- Being very unclear about what actual outcome they might wish to see, or having a varying set of demands
- Unreasonable pursuit of a complaint
- Refusing to accept that certain issues are not within the Council's scope/remit
- Insisting on their complaint or query being dealt with in ways that are incompatible with the Council's complaints procedure
- Contacting us repeatedly about the same or similar issues when we are unable to add any further information to that which has already been provided

- Making unreasonable demands on the time and resources of staff, such as excessive phone calls or detailed emails and letters every few days
- Changing or denying statements made at an earlier stage (aside from where it is considered there had been a genuine error)
- Submitting repeat complaints or FOI requests essentially about the same issue(s) with minor additions/variations which the resident insist make these 'new' issues
- Raising numerous, detailed questions that are immaterial to the case or complaint
- Using racist or discriminatory tone and language

What actions/measures can be taken to stop or limit the behaviour?

The actions that can be taken will depend upon the nature and extent of the individual's behaviour, as well as the context. For example the approach taken to inappropriate behaviour in a public meeting will need to be more immediate than say a written correspondence or interaction on social media. Any action taken should be appropriate and proportionate to the nature and frequency of the individual's contacts with the council.

Stage 1: Initial Contact and actions

In most cases the individual will initially be sent a letter by a senior officer setting out that their conduct is becoming a concern. The letter should ask that the behaviour exhibited is moderated and will suggest, where appropriate, a code of behaviour and responsibilities. If the unreasonable behaviour persists and becomes more regular then there are a number of tools that can be considered; which one to use depends upon the situation and circumstances. They include:

- Writing a letter offering the individual advice about the contact, and setting out more information about the process and how the decision was made
- Request individuals substantiate claims regarding members of staff, councillors, service delivery etc whilst being mindful of communication and equality issues
- Advising the individual to progress matters through the complaints procedure or any relevant appeals procedure
- Advising the individual to see external review where relevant (such as Ofsted, the Information Commissioner, the Housing or Local Government Ombudsman etc)
- Suggesting mediation/training/ learning
- Involving the Police
- Considering legal action to restrict access to officers

Where possible any action should be agreed and decided by a senior manager, and/or the Corporate Customer Standards Officer. This will ensure there is no connection between any staff member who felt concerned by the contact and the determination of the subsequent action taken against the perpetrator, which will help depersonalise the situation and deescalate any negative personal feelings.

Obviously the council response needs to be measured, proportionate and the implications considered. For example, we do not take any decision to involve the Police or to take legal

action without careful consideration.

Staff should always consider how they interact with a complainant; many long-term incidents escalate because the customer believes an officer or the council is in some way abusing their power. Decisions should be clearly outlined and explained, with reference to the appropriate procedure and/or legislation if available. Officers should recognise the individual's point of view, even if they don't accord with legislation and procedures. Demonstrating some empathy with the individual can go a long way to show that you understand their concerns.

Stage 2: Further action and responses

If the above terms and conditions are contravened and the unreasonable behaviours or actions persist then the senior officer will consider, along with the Corporate Customer Standards Officer implementing other stronger action such as;

- The service concerned should appoint a named officer to deal with and review any future correspondence or contact from the individual. When reviewing any future correspondence, the officer should consider whether this relates to an existing issue or whether it is a new concern.
- Advise the individual they have exhausted the complaints procedure and confirm there is nothing to add to the points already raised. Explain that further contact with the council on this specific issue will be noted only. If the individual has not already done so, they may contact the Ombudsman
- If the matter relates to a council policy or decision which the individual continues to raise at meetings, it may be pointed out that the matter has been considered, the individual's opinion taken into account, and the opinions of others also. If the individual feels there is an issue around "process" about how the decision has been formed, the council will consider if there is a formal appeals or review process for the individual to progress matters. However, it will not continue to spend time discussing matters.
- In telling an individual their contact and behaviour is unreasonable, our letter should clearly set out;
 - The impact their action is having on the service
 - The reasons for our decision
 - The restrictions imposed on the customer access
 - The time limit for the restriction
 - The remaining points of contact
 - A right to appeal the decision
- Decline contact with the individual either in person, by telephone, by letter or email, provided that one form of contact remains open via a nominated contact. This will be for a fixed period not exceeding 12 months but will in most circumstances be 6 months. The Corporate Customer Standards Officer will investigate and decide which other service contact needs to be advised that an individual has been considered as unreasonably persistent or vexatious.

What can an individual do to challenge the Council's decision?

Our staff members come from all walks of life and have many different personal experiences and tolerances. When considering a concern about individual behaviour and how to respond to it, senior managers will discuss the situation to determine what happened, and whether the council could have dealt with matters in a different way. Senior managers will also consider any other relevant incidents involving the staff member. In this way, we intend to consider the situation from the individual's point of view at the time the matter is considered, although we must also fully recognise that some behaviour is simply unacceptable irrespective of the circumstances.

If an individual wants to challenge the Council's decision they will need to set out in writing what their concerns are, and how they see the matter being addressed. It would be helpful for them to explain their view of the context behind their behaviour. It is rarely useful for the council to speak with individual witnesses and the evidence contributing to the decision to restrict an individual's access is not as rigorous as it might be in a court of law. It is also worth bearing in mind that while a restriction on access to services can be inconvenient there are never any circumstances where access to the council and its services might be fully withdrawn.

How does the Council review the decision?

At the end of the review period, the council considers the contact during the intervening period. If it feels that the individual has not attempted to contact the service inappropriately, and there is no other information in relation to the individuals' behaviour (the council may receive information via partner organisations, or even the local press for example) then it may well consider restoring access to the individual. It may also ask the resident to commit to contact the council in a reasonable way in future and to not approach officers about historic concerns.

What training does the council provide to assist employees to manage unreasonable behaviour?

The council provides a range of training options which may help employees and councillors to anticipate difficult situations, prevent them from arising or escalating if possible and diffuse them when they occur. We will continue to assess the impact of this policy as well as developing the training and support offered to employees and councillors.

August 2017

Key Links, documents and other relevant complaint processes

Kirklees Council's Compliment and Complaints Procedure

<http://www.kirklees.gov.uk/beta/contact-the-council.aspx#complaints-comment>

Childrens Complaints: statutory complaints process

<http://www.kirklees.gov.uk/beta/contact-the-council/children-young-people-complaints.aspx>

Business Rates/Council Tax: Valuation Tribunal -

<https://www.valuationtribunal.gov.uk/your-appeal-type/council-tax/>

and <https://www.valuationtribunal.gov.uk/your-appeal-type/business-rates/>

Housing Benefits: Tribunal Service

<https://www.kirklees.gov.uk/beta/benefits/pdf/housing-benefit-appeals.pdf>

Planning Inspectorate

<https://www.gov.uk/government/organisations/planning-inspectorate>

School Admissions Appeals Panel Process

<https://www.kirklees.gov.uk/beta/admissions/pdf/pupil-admissions-appeals.pdf>

Local Government Ombudsman

<http://www.lgo.org.uk>

Housing Ombudsman

<http://www.housing-ombudsman.org.uk>

Department for Education (some Schools and Childrens Service matters)

<https://www.gov.uk/government/organisations/department-for-education/about/complaints-procedure>

Standards Process

<http://www.kirklees.gov.uk/beta/contact-the-council/councillor-complaints.aspx>