1.0 PURPOSE OF REPORT

1.1 This purpose of the report is to provide information to the Commission in response to a proposed future item of work by a member of the public regarding the Council’s Unacceptable Behaviour Policy.

2.0 RECOMMENDATION/S

It is recommended that the Commission considers the report and Either

(I). A review of the Unacceptable Behaviour Policy should be included in the Commission’s work programme and, if so agrees that;

(a) It is/is not included in the scope of the Code of Conduct review
(b) a scope is developed and priority agreed

or

(II). A review of the Unacceptable Behaviour Policy should not be included in the Commission’s work programme

3.0 THE REPORT

1. Background

3.1 At the Overview and Scrutiny Commission meeting held on 4 March 2019 a potential future item of work was proposed by a member of the public regarding the Council’s Unacceptable Behaviour Policy. The following is a summary of the request:
• That the scope of the Code of Conduct review should be broadened to include the Council’s Unacceptable Behaviour Policy as this also relates to the issue of conduct.
• The policy can be imposed on residents at the discretion of the Chief Executive; but that the resident is given no opportunity to dispute or deny allegations made against them before the policy takes effect.

3.3 It was suggested that “restrictions can be imposed on residents if it’s claimed that they have conducted themselves in an inappropriate way and yet if there are allegations that senior officers have behaved improperly, they seem able to avoid censure or sanctions by citing the no blame culture”.

2. The Unacceptable Behaviour Policy

3.4 The Unacceptable Behaviour Policy applies to members of the public that contact the Council and is usually considered as part of the complaints process. It does not apply to Members or Officers of the Council and complaints against them are handled using different process/procedures that are the subject of a separate Overview and Scrutiny review. A copy of the current Unacceptable Behaviour Policy is attached at APPENDIX A.

3.5 The policy deals with occasions where customers may make unreasonable demands that could affect services provided to customers, or interact in a manner which causes offence to staff. There is a similar policy in place at other councils sometimes called unreasonable/persistent/vexatious/etc policy. The aim of such policies is to manage customer contact in an appropriate manner to protect staff and to maintain the effectiveness of services to other customers.

3.6 The Local Government and Social Care Ombudsman (LGSCO) has produced guidance on the management of unreasonable complainant behaviour and this is attached at APPENDIX B. The LGSCO also has its own Policy on the management of unreasonable complainant behaviour and this is attached at APPENDIX C.

3. Initial Comparison

3.7 The LGSCO guidance provides examples of information that could be included in an unreasonable complainant behaviour policy:

• Examples of the main kinds of ‘trigger’ actions/behaviours which may cause the policy to be invoked
• A list of the options for action open to the organisation
• Information about the decision-making process:
  - who decides
  - whether the policy will be applied to a complainant
  - what limits will be placed on contacts and for how long
  - whether limits can be lifted or should continue
  - details of complainants’ rights of review/appeal against a decision to invoke the policy and/or any particular restrictions applied
• Guidance on the nature of the records to be kept
• What information is given to complainants when the policy is applied
- Advice about who in your organisation is to be informed that contact with a named complainant is being restricted and why
- Links with other organisational policies

3.8 The Councils’ Unacceptable Behaviour Policy includes sections that consider the examples provided in LGSCO guidance. There is an appeal process if full restrictions are imposed but not before implementation.

3.9 An initial assessment of a selection of 14 other councils indicates that equivalent policies contain the same/similar information. It should be noted that full comparisons/additional work has not been undertaken at this stage as a full review has not been agreed. The following is therefore a summary of information relevant to the review proposal to provide some outline comparisons to assist the Commission in any decision to undertake further work.

- All policies had similar aims to manage customer contact in an appropriate manner to protect staff and to maintain the effectiveness of services to other customers
- 6 Councils had no appeal process against any restrictions
- 8 Councils had an appeal process against the restriction however this could include the review of the timescale rather than the restriction itself and some were unclear
- All councils implemented any restrictions before potential appeal

3.4 In summary the Council’s Unacceptable Behaviour Policy is consistent with the guidance from the LGSCO and other councils. From the information received the Council does have an appeal process as do the majority of other councils however direct comparisons cannot be made without significant further work. All authorities implement restrictions prior to any appeal.

4. Information Summary

- Links to Code of Conduct Review

3.5 The Unacceptable Behaviour Policy applies to members of the public that contact the Council and is usually considered as part of the complaints process. Its' aim is to manage customer contact in an appropriate manner to protect staff and to maintain the effectiveness of services to other customers.

3.9 The Unacceptable Behaviour Policy does not apply to Members or Officers of the Council and complaints against them are handled using different process/procedures that are the subject of a separate Overview and Scrutiny review.

- Implementation of restrictions prior to any appeal

3.10 All councils that had been considered implemented any restrictions before potential appeal.
5. Way Forward

3.11 The Commission can consider the information in the report in response to the review proposal and agree

Either

(I). A review of the Unacceptable Behaviour Policy should be included in the Commission’s work programme and if so agrees that;

(a) It is/is not included in the scope of the Code of Conduct review
(b) a scope is developed and priority agreed

or

(II). A review of the Unacceptable Behaviour Policy should not be included in the Commission’s work programme

4.0 REQUIRED ASSESSMENTS AND IMPLICATIONS

4.1 The following were considered: Financial Implications; Human Resources Implications; Legal Implications; ICT Implications; Strategic Property/Asset Management Considerations; Risk Assessment; Equality and Diversity (the Public Sector Equality Duty and impact upon people with protected characteristics). If applicable, the outcomes of any consultations, assessments, considerations and implications considered necessary during preparation of this report are detailed below.

5.0 CONCLUSIONS

5.1 This purpose of the report is to provide information to the Commission in response to a proposed future item of work by a member of the public regarding the Council’s Unacceptable Behaviour Policy.

Background Papers –

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