

Cabinet

28 January 2020

Corporate Complaints and Unreasonable Behaviours

For Decision

Portfolio Holder: Cllr S Flower, Leader of the Council

Local Councillor(s): **All**

Executive Director: Jonathan Mair, Corporate Director, Legal & Democratic

Report Author: Marc Eyre
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Report Status: Public

Recommendation: That Cabinet:

1. Note the number of complaints received by Dorset Council (Q1 and 2);
2. Endorse and approve the proposed approach to managing unreasonable behaviour as set out in the protocol at Appendix B and give delegated authority for officers to finalise the document based on this approach.

Reason for Recommendation: To protect the health and wellbeing of representatives of the Council (whether staff, volunteers or elected members)

1. Executive Summary

Establishing a corporate complaints policy was set out as a Day One requirement for Dorset Council and separate policies were approved for (i) complaints; and (ii) social care complaints for children (which are subject to a more stringent compliance regime). This report includes a performance update on claim numbers and highlights that a greater emphasis is being placed on learning from the complaints where they do arise.

Whilst the majority of contact with members of the public is positive, there are occasions where unreasonable behaviour presents a potential risk to the health and

wellbeing of council representatives (staff, volunteers or elected members). An unreasonable behaviours protocol is being established to manage such contact, to determine any needs for single points of contact and ensure that proportionate information is shared with other council representatives that may have contact with the individual.

2. Financial Implications

None

3. Climate implications

None

4. Other Implications

None

5. Risk Assessment

Having considered the risks associated with this decision, the level of risk has been identified as:

Current Risk: Medium

Residual Risk: Low

6. Equalities Impact Assessment

An EQIA is in progress and will be completed and responded to prior to the protocol being adopted.

7. Appendices

Appendix A – Summary of Corporate Complaints (Q1 to Q2)

Appendix B – Draft Unreasonable Behaviours Protocol

8. Background Papers

None

9. Corporate Complaints and Unreasonable Behaviours

Corporate Complaints Policy

- 9.1 Establishing a corporate complaints policy was set out as a Day One requirement for Dorset Council and separate policies were approved for (i) complaints; and (ii) social care complaints for children (which are subject to a more stringent compliance regime).

- 9.2 The restructure of corporate services during 2019 included establishing an Assurance Service within Legal and Democratic Services. This includes a responsibility for risk management, internal audit, emergency planning, information compliance, information management and corporate complaints.
- 9.3 Tranche 2 of the restructure included harmonising the historic handling arrangements from the predecessor councils into a single team. The new “Learning from Complaints” team been established as of 1st January 2020. As the name of the team suggests, the emphasis has changed from responding to a complaint to better understanding of the cause of complaints by developing an organisational learning approach. This approach will be mirrored across the other Assurance functions. Reporting on complaints and lessons learnt are already received by the Place Scrutiny Committee and it is proposed that this should be mirrored across the other Scrutiny Committees.
- 9.4 Appendix A provides an overview of complaints performance during 2019/20 (quarters one and two).

10. Unreasonable Behaviours

- 10.1 Whilst the majority of complainants act in a reasonable and professional manner, there are occasions where the behaviour may be deemed unreasonable (whether of a vexatious, threatening or physical nature). The Council owes a duty of care to its representatives (staff, volunteers and elected members) to protect their health and wellbeing. In doing so, we must ensure that where we are aware of unreasonable behaviour that other representatives of the Council are appraised should they have contact with that individual and can take appropriate action.
- 10.2 Shadow Dorset Council approved its Unreasonable Complainants policy as a day one policy requirement. However, unreasonable behaviour towards representatives of the Council is not limited to complaints and can arise more generally from service interaction with the public that results in actual or threatened violence or abuse. The draft Unreasonable Behaviours protocol is designed to set a framework for how such behaviour is identified, recorded and (where appropriate) shared across Council services. It will replace the current unreasonable complainants policy.
- 10.3 The protocol sets out the risk based approach to identifying those individuals displaying unacceptable behaviour, which is determined by a small panel of officers. The individual will be made aware that such behaviour is unacceptable and will be informed of the action being taken. In some cases a single point of contact within the Council will be identified.
- 10.4 Limited data on the individuals will be made available to appropriate staff, together with a contact point for further information. This therefore provides a proportionate balance between our duty of care on health and safety vs our obligations on data privacy. It has been agreed that this process will be subject to a Data Privacy Impact Assessment before being rolled out.

10.5 The protocol is currently in draft and some minor changes may be made. The recommendations within this report request that officers are delegated responsibility for finalising this protocol, based on the approach suggested.

Footnote:

Issues relating to financial, legal, environmental, economic and equalities implications have been considered and any information relevant to the decision is included within the report.

dorsetcomplaints



2019/20

		Q1	Q2	Q3	Q4	
	Number of FORMAL complaints	70	98			Q2 showed a significant increase in formal complaints over Q1 consistent with increasing volumes generally.
	Number of INFORMAL complaints	90	89			Informal complaint volumes were broadly similar in Q1 and Q2.
	Upheld approaches to the LGSCO Ombudsman compared to total received	0/4	0/15			Although there was a significant increase in approaches to the LGSCO in Q2, none were upheld.
	Timescales (overdue)	14%	21%			The number of complaints responses which were overdue in Q2 increased slightly over Q1.
	% fully justified complaints	1%	3%			The number of fully justified complaints remains very low in Q1 and Q2.
	% part justified complaints	19%	16%			The number of partially justified complaints remains consistent over Q1 and Q2.
	Compliments	56	68			Q2 shows a promising increase in the number of compliments received.
	Learnings	14	44			There has been a very encouraging increase in learnings received in Q2 reflecting greater engagement across the directorates.

Total Quarterly Complaints Overview

2019/20

performance



***DRAFT* Unreasonable Behaviour Protocol**

Protocol Details

What is this protocol for?	This document sets out the protocol for managing incidents of unreasonable behaviour, whether violent, potentially violent or vexatious.
Keywords	Complaint, Feedback, Ombudsman, Local Government & Social Care Ombudsman (LGSCO)
Author	Marc Eyre, Service Manager for Assurance - Dorset Council
Dorset Council protocol adopted from	Replaces Dorset Council policy "Policy for Managing Unreasonable and Persistent Complainants"
Does this protocol relate to any laws?	N/A
Is this protocol linked to any other Dorset Council policies?	This protocol supports a number of existing Dorset Council policies: Complaints Policy Violence at Work Policy
Equality Impact Assessment (EqIA)	An EqIA has been drafted and is awaiting approval.
Other Impact Assessments	None.

Status and Approvals

Status	Live	Version	Version 1.0
Last review date	This is a new Protocol	Next review date	To be confirmed
Approved by (Director)		Date approved	
Member/ Partnership Board Approval	Not required	Date approved	

Unreasonable Behaviour Protocol

Dorset Council does not expect its representatives (whether staff, volunteers or elected members) to tolerate unreasonable behaviour from members of the public or other points of contact. The organisation has a direct duty of care to its representatives and also a responsibility to any associated organisations and/or partners it works alongside.

It is therefore vital that any known risks emerging from contacts with our clients, customers and/or suppliers etc are lodged and recorded and are then available to protect individual safety.

The purpose of this protocol is to set a process by which unreasonable behaviour (whether violent, potentially violent or vexatious) can be assessed, recorded and made available to employees, whilst recognising also the need to ensure that personal data is managed effectively and appropriately.

1) What constitutes 'unreasonable behaviour'?

Unreasonable behaviour may include:

- Abusive, offensive or threatening language on the telephone;
- Abusive, offensive or threatening language face to face;
- Sending of abusive, offensive or threatening correspondence;
- Making multiple phone calls;
- Sending multiple e-mails;
- Leaving multiple voicemails;
- Sending multiple text messages;
- Publishing unacceptable information in a variety of media such as social media websites and newspapers;
- Threats of violence;
- Actual violence

2) What should you do if you believe that you have been or are the subject of unreasonable behaviour?

In the first instance, you should notify your line manager;

Where the incident relates to violent or potentially violent behaviour the Violence, Aggression and Harassment at Work policy and guidance should be followed.

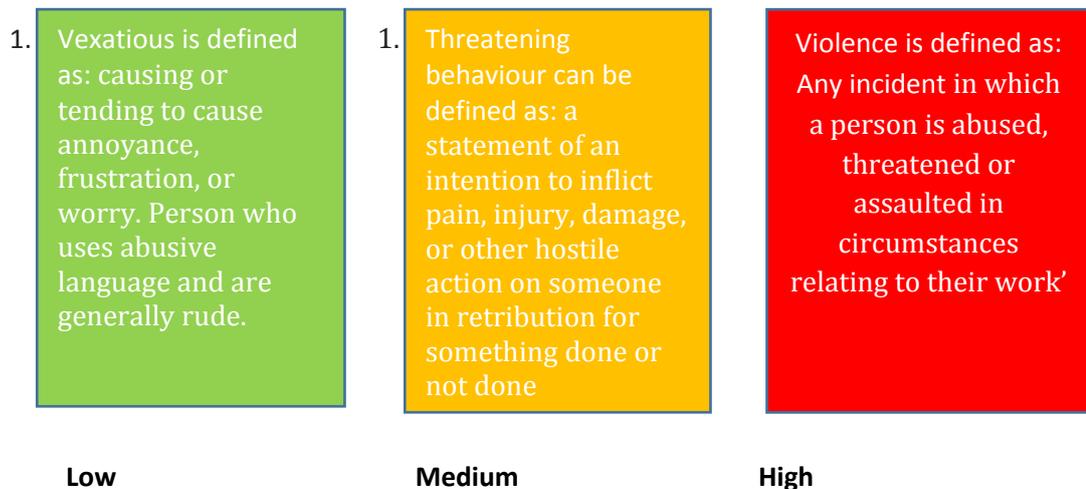
The manager will complete an unreasonable behaviour proforma so that an assessment can be made as to whether the perpetrator needs to be recorded within the 'unreasonable behaviour' database so that other members of staff can take appropriate action should they have contact.

3) How is the 'unreasonable behaviour' database maintained?

On receipt of the unreasonable behaviour proforma, it will be reviewed by the following panel of officers:

- An Operations Manager from the directorate concerned
 - Service Manager for Assurance
 - Senior Assurance Officer – Complaints
 - Customer Services Manager
 - A legal representative
 - Health and Safety Manager
- (or their nominated representatives)

The panel may meet physically or virtually. The panel will decide if the behaviours meet the criteria for Unreasonable Behaviour (UB), using the following risk assessment criteria. Where a majority decision is not reached, the Operations Manager will have the 'casting vote':



Where the panel's risk assessment determines that the perpetrator should be logged on the unreasonable the following action should be taken:

Low / Medium Risk –

Phase One - A letter should be sent from the Directorate using a phase template. This letter should describe the incident, location, date and time. The letter will advise that they have been logged on the Council's unreasonable behaviour database and that the record will be removed after 12 months as long as there is no repeat behaviour.

Consideration should be given as to whether a Single Point of Contact (SPOC) is required at this stage. A SPOC will generally be an appropriate Service Manager, but at their discretion this may be delegated to another appropriate officer.

The incident and follow up actions should be recorded on the unreasonable behaviours database.

Phase Two - If there is a repeat of the behaviour, the panel will reconvene and ensure the behaviours are consistent with the initial incident and take a view on whether a phase 2 letter should be issued. The letter should be signed off to show escalation from the manager at phase 1. The phase 2 letter should:

- Refer to the phase 1 letter, including date of issue
- Describe the incident, location, date and time.
- Send a strongly worded letter reiterating the Council's position.
- Note that they have been logged on the Council's unreasonable behaviour database and that the record will be removed after 12 months as long as there is no repeat behaviour.

Further consideration should be given as to whether a Single Point of Contact (SPOC) is required at this stage, if not already. At the Panel's discretion, it may be determined that the behaviour demonstrated is sufficiently significant as to move directly to Phase Three.

The further incident and follow up actions should be recorded on the unreasonable behaviours database.

Phase Three - If there is a further repeat of the behaviour, the panel will reconvene and ensure the behaviours are consistent with the initial two incidents and take a view on a phase 3 letter. The phase 3 letter should be sent from legal, and:

- Refer to the phase 1 & 2 letters, including date of issue
- Describe the incident, location, date and time.
- Include a cease and desist letter
- Include a SPOC if not already in place
- Identify the consequences of a breach;
- Note that they have been logged on the Council's unreasonable behaviour and that the record will be removed after 12 months as long as there is no repeat behaviour.

High Risk –

A letter should be sent from legal, and:

- Describe the incident, location, date and time and identify how the behaviour is deemed unacceptable under this protocol.
- Include a cease and desist letter
- Include a SPOC if not already in place
- Identify the consequences of a breach;
- Note that they have been logged on the Council's unreasonable behaviour and that the record will be removed after 12 months as long as there is no repeat behaviour.

The incident should be recorded on the unreasonable behaviours database.

4) Who can access the unreasonable behaviours database?

To be effective it is important that the information on 'threat risk levels' associated with known individuals and/or specific addresses are widely available. This will ensure that potential 'threats' are known prior to contacts and/or visits and to allow careful consideration to be given to such contacts.

However, the organisation also has a responsibility to ensure that sensitive data is protected and managed appropriately.

This means that relevant information will need to be 'layered' with certain information only being available on a 'need to know basis'.

To achieve this, it is proposed only 'headline' data is displayed for general awareness and access, allowing more granular and sensitive data to be accessed through a named service and/or contact when required.

5) How will the database be maintained?

Unreasonable behaviour records will be reviewed after 12 months by the panel, and a view taken as to whether or not to remove from the list. Removal from the list will not be communicated to the perpetrator as this may re-oxygenate the issues.

The Service Manager for Assurance will be the Information Asset Owner for the Unreasonable Behaviours database, but the responsibility for individual records will rest with the identified Operations Manager.

6) What happens if the behaviours do not improve?

In the event that behaviours do not improve, the matter should be escalated to legal services to determine what further action needs to be taken.

Marc Eyre, Service Manager for Assurance
January 2020