

REPORT TO EXECUTIVE

Date of Meeting: 3 November 2020

REPORT TO COUNCIL

Date of Meeting: 15 December 2020

Report of: Director Net Zero Exeter & City Management

Title: Review of Policy for Dealing with Unacceptable Customer Behaviour

Is this a Key Decision?

No

Is this an Executive or Council Function?

Council

1. What is the report about?

To seek approval for the adoption of the revised Policy for Dealing with Unacceptable Customer Behaviour.

2. Recommendations:

- 2.1 That Executive supports the revised Policy for Dealing with Unacceptable Customer Behaviour; and
- 2.2 That Council approves the revised Policy for Dealing with Unacceptable Customer Behaviour.

3. Reasons for the recommendation:

3.1 The Policy for Dealing with Unacceptable Customer Behaviour and associated guidance documents have been developed separately over a number of years and are in need of review to ensure that they are up to date, reflect current processes and complement each other.

4. What are the resource implications including non financial resources.

4.1 There are no resource implications other than officer time in dealing with cases.

5. Section 151 Officer comments:

5.1 There are no financial implications for Council to consider.

6. What are the legal aspects?

6.1 The policy and procedures reflect compliance with The Health and Safety at Work etc. Act 1974, Data Protection Act 2018, the Equality Act 2010, and safeguarding responsibilities under the Care Act 2014 and the Children Act 2004.

7. Monitoring Officer's comments:

The Monitoring officer consider that the organisation is now better served by the policy as it seeks to balance the interests of the customer with the interests of other service users and employees and contractors, and it requires the Council to have regard to questions of reasonableness and proportionality. However, it also recognises that decisions in individual cases may have to be taken quickly for obvious reasons, but with an ability for the customer to challenge that decision in due course and or we automatically review the decision

8. Report details:

8.1 The Policy for Dealing with Unacceptable Customer Behaviour has been in place since 2014. It sets out the Council's procedure for protecting staff against abusive, aggressive and violent customer behaviour as well as behaviour that places unreasonable demands on Council staff. Examples of this include contacting several different members of staff at the same time on the same matter or inundating the Council with emails, telephone calls or copies of information that have already been submitted or that are irrelevant to the enquiry.

8.2 Related to this Policy are the Step Away Guidance and the Employee Protection Register procedures. The former sets out what measures staff can take to protect themselves and how the Council will support them, when dealing with abusive, aggressive or violent customers. The latter sets out the procedure for including an abusive, aggressive or violent customer on the Employee Protection Register so that all staff can be alerted to the risk the customer may pose.

8.3 All three documents have been developed separately and are in need of review to ensure that they are up to date, reflect current processes and complement each other.

8.4 A key change in procedure since these documents were written is the development of the Safety of Employees Review Group. This group is made up of officers from services that most frequently deal with unacceptable customer behaviour and a representative of Unison. Its primary purpose is to provide oversight of the cases being proposed for inclusion on the Employee Protection Register and assess whether the risk rating and mitigating actions are appropriate.

8.5 The group also regularly reviews cases already on the register to ensure that no one remains on the register who is no longer a risk to staff, councillors and other customers

8.6 In addition to the policy and procedure documents a flowchart is being developed to provide a quick visual guide to the process for dealing with cases.

8.7 Apart from general updates to reflect the current organisational structure the following represents the key changes to the Policy and associated guidance:

- Text has been added to remind staff to check whether a customer's behaviour may impact on other relationships they have with the Council. For example if the customer is also a taxi or private hire vehicle licensed driver, their behaviour may be taken into account by the Licensing Committee as to whether they are a fit and proper person to hold such a licence.

- Clauses on information management have been updated to reflect the requirements of the Data Protection Act 2018.
- The Policy now includes information on the Council's duties under the Equality Act 2010.
- Reference has been removed to the ability for customers to be given an opportunity to change their behaviour before they are added to the Employee Protection Register. This is not considered a feasible option when the key purpose of the Policy is to protect staff. However the section on the appeals process has been expanded to include more detail and clarity on the process for appealing inclusion on the register and any mitigating action such as exclusion from council premises.
- Where the Policy refers to customers being able to request a review on the decision to include them on the register this has now been added to so that third party organisations such as support agencies working with the customer can request a review.
- Reference to 'sanctions' being imposed on customers has been replaced with the term 'mitigating actions'. This term better reflects the purpose of such actions to protect staff rather than penalise customers. Examples of such mitigating actions would be exclusion from council premises or requiring a customer to have a single point of contact.

9. How does the decision contribute to the Council's Corporate Plan?

9.1 The decision will support the priority to lead a well run council

10. What risks are there and how can they be reduced?

The main risk to the policy is that the procedures are not properly followed and leave the Council open to legal challenge. Communication of the procedures to all staff coupled with the oversight of the Safety of Employees Review Group should mitigate this risk.

11. Equality Act 2010 (The Act)

11.1 Under the Act's Public Sector Equalities Duty, decision makers are required to consider the need to:

- eliminate discrimination, harassment, victimisation and any other prohibited conduct;
- advance equality by encouraging participation, removing disadvantage, taking account of disabilities and meeting people's needs; and
- foster good relations between people by tackling prejudice and promoting understanding.

11.2 In order to comply with the general duty authorities must assess the impact on equality of decisions, policies and practices. These duties do not prevent the authority from reducing services where necessary, but they offer a way of developing proposals that consider the impacts on all members of the community.

11.3 In making decisions the authority must take into account the potential impact of that decision in relation to age, disability, race/ethnicity (includes Gypsies and Travellers), sex and gender, gender identity, religion and belief, sexual orientation,

pregnant women and new and breastfeeding mothers, marriage and civil partnership status in coming to a decision.

11.4 In recommending this proposal potential impact has been identified on people with protected characteristics as determined by the Act and an Equalities Impact Assessment has been included in the background papers for Member's attention.

12. Carbon Footprint (Environmental) Implications:

No direct carbon/environmental impacts arising from the recommendations.

13. Are there any other options?

The policies and procedures provide clarity for customers and staff about what is considered unacceptable behaviour and how the Council will deal with cases. Committee could decide not to accept the updates but this could leave the Council open to legal challenge.

Director Net Zero Exeter & City Management, David Bartram

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Local Government (Access to Information) Act 1972 (as amended)

Background papers used in compiling this report:-

Equality Impact Assessment

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