

Committee: Housing Management and Almshouses Sub-Committee	Dated: 29 November 2023
Subject: Unreasonable Behaviour Policy	Public
Which outcomes in the City Corporation's Corporate Plan does this proposal aim to impact directly?	1, 2
Does this proposal require extra revenue and/or capital spending?	N
If so, how much?	£
What is the source of Funding?	
Has this Funding Source been agreed with the Chamberlain's Department?	Y/N
Report of: Executive Director of Community and Children's Services	For Decision
Report author: Liam Gillespie, Head of Housing Management, DCCS – Housing Division	

Summary

We are committed to responding to all complaints, enquiries and service requests in a professional and timely manner and to providing residents with access to staff who can provide them with help. Unfortunately, we sometimes experience unacceptable behaviour from residents and service users, including abusive, threatening or insulting words or behaviour, or unreasonable complainant behaviour which places an excessive demand on our resources. These instances are rare but can have a negative impact on staff members and our ability to provide services to residents.

The Housing Ombudsman Service encourages landlords to have a policy in place to respond to unreasonable or unacceptable behaviour from residents and we have drafted a new Unreasonable Behaviour Policy to set out our approach to these issues.

The Unreasonable Behaviour Policy is intended to give reassurance to staff that they will be supported when unreasonable behaviour occurs. It also sets out our commitment to ensuring that residents are heard, understood and respected, and emphasises that we will deal with instances of unreasonable or unacceptable behaviour in a fair, consistent and proportionate manner, with due regard to equalities implications.

Recommendation

Members are asked to:

- Approve the Unreasonable Behaviour Policy for use by the Housing Division

Main Report

Background

1. The Housing Division handles thousands of enquiries from residents and other service users every year, from simple service requests to more complex enquiries or complaints. Most of these interactions are concluded without issue, however sometimes staff experience unacceptable or unreasonable behaviour from residents and others.
2. In this context, unreasonable behaviour refers to:
 - unacceptable conduct affecting, or directed at, an individual person or identifiable group, such as aggression, threats, abuse or harassment
 - unreasonable behaviour in the context of a complaint or other service request, which may involve the making of unreasonable demands, persistently revisiting resolved complaints or making unreasonable levels of contact with the Housing Division. This is commonly referred to as 'vexatious' behaviour, however this term is not used in our draft policy
3. The Housing Ombudsman and the Local Government and Social Care Ombudsman encourage members of their schemes to have a clear policy on unreasonable behaviour, to ensure that incidents are dealt with fairly, proportionately and consistently. The Housing Ombudsman's Complaints Handling Code also requires social landlords to have a clear policy on dealing with unreasonable complainant behaviour.
4. A draft Unreasonable Behaviour Policy has been produced for Members' consideration, which is meant to provide a clear statement on our handling of unacceptable behaviour towards staff and explain how we will deal with the small number of cases where people make excessive and unreasonable demands on our services while making complaints or service requests.
5. The policy aims to give staff a framework that helps them feel confident and supported when deciding upon the right course of action if an issue arises. It also aims to ensure a fair, proportionate and consistent response to every situation and make sure that residents/service users are treated fairly and with respect regardless of their behaviour.
6. We understand that people may behave in a particular way due to being distressed or upset, or because they have support needs or vulnerabilities that make communication more difficult for them. We will ensure that this is considered when responding to instances of unreasonable behaviour and will put support in place to assist people where possible. The draft policy also emphasises that we will have due regard to equalities considerations in managing these situations, including the Public Sector Equality Duty and any relevant protected characteristics, in accordance with the Equality Act 2010.

Current Position

7. It should be stressed that these incidents form only a very small proportion of the interactions our staff have with residents and service users, however the impact of incidents of abuse or aggression on staff wellbeing and morale can be very serious, despite their rarity.

Acts directed at individuals or groups

8. This includes unacceptable language in e-mails or telephone calls, abuse, threats and intimidation. Some examples of incidents we have recorded include:
 - The use of racially offensive language towards several staff members at an estate office
 - Shouting at and threatening violence towards a staff member in an estate office
 - Threatening violence towards a contractor who was working on an estate
 - Repeatedly sending emails to a member of staff containing false accusations of misconduct and using personal abuse
 - Using an online forum to abuse, insult and patronise staff, including making prejudiced remarks about staff and their race or nationality
9. These incidents were dealt with through various means, including an injunction, warning letters from officers and formal legal letters from the Comptroller and City Solicitor's Department.
10. Our tenancies and leases contain terms dealing with antisocial behaviour and nuisance and we will also invoke our Antisocial Behaviour Policy where justified.

Unreasonable complainant behaviour

11. We occasionally experience situations in which individuals making complaints or service requests place demands on our resources which are out of all proportion to the underlying issue. While this is relatively rare, it is important that situations such as this are effectively managed to ensure that we can address any legitimate enquiries and allocate resources fairly to assist others who need our help. Some examples we have experienced include:
 - Repeatedly raising the same unfounded complaint over several years and refusing to accept the outcome despite multiple independent investigations which concluded the matter
 - Writing extensive and repetitive correspondence thousands of words long on trivial matters of complaint for which adequate remedy had already been given, copying in other agencies, repeatedly changing or adding to the complaints, refusing to accept the matters were concluded
 - Making repeated and lengthy written complaints but failing to provide requested evidence, or cooperate with the investigation; repeatedly submitting further extensive and irrelevant correspondence during the investigation and copying in multiple external agencies in a 'scattergun' approach

12. This type of behaviour places unreasonable demands on staff time and can, in some circumstances, cause distress or nuisance to those handling the matter. Sometimes, contact becomes so excessive that it seriously affects the ability of staff to help other people with legitimate complaints. Officers want to assist people with complaints and enquiries and will therefore review any communications received, however this task can be made difficult or impossible when it involves receiving excessive correspondence, or multiple communications in a short time.
13. Some of the incidents above resulted in restrictions being placed on the complainant's contact with the Housing Division, with Chief Officer approval, due to the excessive demands placed on staff time. These restrictions were time-limited and regularly reviewed to ensure that they remained necessary and proportionate.

Our response to unreasonable behaviour

14. When issues occur, we will try to resolve them informally wherever possible. The overriding principle of the policy is that any action we take must be reasonable and proportionate in the circumstances of the case, including taking due account of any individual support needs or protected characteristics. Invoking this policy will not stop us trying to resolve the underlying complaint or service request unless the process has been exhausted.
15. We have set out a range of actions that we might take in different circumstances. This policy is intended to be as transparent as possible and to foster consistency and fairness in our approach to unreasonable behaviour.
16. Where formal action is taken, we will limit this to what is necessary to protect the welfare of staff and any other people affected. Restrictions imposed due to unreasonable contact will also be proportionate and designed to enable us to continue to assist the resident or service user with any legitimate enquiries.
17. Decisions to restrict contact must be authorised by a senior officer after full consideration of the facts of the case and reviewed at specified intervals. Any decision to make restrictions is subject to a right of appeal. This fulfils the requirements of the Housing Ombudsman in their guidance on such policies.
18. When restricting or modifying contact with an individual, we will take account of any communication needs they may have and promote the use of mediation, to ensure mutual understanding and clarify the nature of their enquiry or complaint. We will also encourage the use of independent advocacy services to assist individuals with support needs, to ensure they are still able to request services from us.

Recommendation

19. Members are asked to approve the Unreasonable Behaviour Policy for use by the Housing Division.

Corporate & Strategic Implications

Strategic implications

This policy will support the delivery of our strategic aims in both the Corporate Plan and the Housing Strategy.

Corporate Plan 2018-23:

- People are safe and feel safe

Housing Strategy 2019-23:

- Well-managed estates that people are happy and proud to live in (the policy will support the effective management of our estates by supporting staff in fulfilling their roles)

The policy also meets good practice recommendations by the Housing Ombudsman and Local Government and Social Care Ombudsman relating to unreasonable complainant behaviour, by setting out a clear statement of how we will respond when these issues arise.

Equalities implications

The policy will support us in meeting our Public Sector Equality Duty (Equality Act 2010, s.149) by ensuring that we have due regard to the need to eliminate discrimination and foster good relations. Proportionality and equalities principles are an integral part of the policy. We will ensure that officers take account of protected characteristics and any applicable support measures that may benefit an individual when invoking the policy. Decisions taken under the policy will be fully documented and, in some instances, subject to approval and regular review.

Conclusion

20. A draft Unreasonable Behaviour Policy has been written, which covers circumstances in which individuals display unacceptable behaviour towards staff in the Housing Division, or place unreasonable demands on our resources while making complaints or service requests.

21. The use of such a policy is encouraged by the Housing Ombudsman and is designed to ensure fairness, consistency and transparency in our responses to unreasonable behaviour. The policy specifically addresses the need for fairness and proportionality in making decisions which restrict someone's contact with us, or where they may be subject to formal action.

22. The policy is intended to provide reassurance and confidence to staff in responding to unreasonable behaviour and make sure that due regard is had to the needs of individuals who may be exhibiting unacceptable behaviour or placing unreasonable demands on our resources.

Appendices

- Appendix 1 – Draft Unreasonable Behaviour Policy
- Appendix 2 – Consultation responses

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