

REPORT TO CABINET

Open/Exempt		Would any decisions proposed :				
Any especially affected Wards	Mandatory / Discretionary / Operational	Be entirely within Cabinet's powers to decide Need to be recommendations to Council				
		YES/NO YES/NO				
Is it a Key Decision		YES/NO				
Lead Member: Stuart Dark E-mail: cllr.stuart.dark@west-norfolk.gov.uk			Other Cabinet Members consulted:			
			Other Members consulted:			
Lead Officer: Alexa Baker, Monitoring Officer E-mail: alexa.baker@west-norfolk.gov.uk Direct Dial: 01263 516006			Other Officers consulted:			
Financial Implications YES/NO	Policy/ Personnel Implications YES/NO	Statutory Implications YES/NO	Equal Impact Assessment YES/NO If YES: Pre-screening/ Full Assessment	Risk Management Implications YES/NO	Environmental Considerations YES/NO	
If not for publication, the paragraph(s) of Schedule 12A of the 1972 Local Government Act considered to justify that is (are) paragraph(s)						

Date of meeting: 15 March 2022

REVIEW OF THE UNREASONABLE COMPLAINANTS POLICY

Summary

A review of the Unreasonable Complainants Policy ("the UC Policy") has been undertaken by the Corporate Performance Panel ("CPP") via an informal working group ("IWG").

On 1 February 2021, CPP recommended to Cabinet that changes be made to UC Policy and the Constitution, as proposed by the IWG.

The Monitoring Officer has no objections to any of the proposed changes.

Recommendation

To consider the proposed changes to the UC Policy and Constitution as recommended by CPP, and:

1. Consider whether to recommend any or all of the proposed changes to the UC Policy as set out at Appendix 1 to Full Council; and
2. Consider whether to recommend any or all of the proposed changes to the Constitution as set out at Appendix 2 to Full Council.

Reason for Decision

It is a function of CPP to assist in advancing the development of effective policy for promoting or improving the economic, social and environmental wellbeing of the

people and communities of King's Lynn and West Norfolk. CPP have reviewed the UC Policy and have recommended changes to the UC Policy and Constitution to Cabinet. If Cabinet are in agreement with some or all of the changes then these can be recommended to Full Council.

1 Background

On 8 November 2021 the Corporate Performance Panel resolved to set up an informal working group to the review of the Unreasonable Complainants Policy.

The purpose of this report is to set out the work of the duly constituted informal working group ("IWG") consisting of Cllr Ayres, Cllr Manning, Cllr Moriarty and Cllr Nash who met as a group on 24 November 2021 and 1 December 2021.

During the two meetings held, the IWG came to an agreement on proposed changes that it wished to recommend to CPP for consideration, which are set out as tracked changes to the current UC Policy. This tracked changed document is attached as Appendix 1.

The proposed use of the Standards Committee to determine appeals by complainants, at section 5 of Appendix 1, would require a change to the Council's Constitution. These proposed changes were also considered by the IWG and are set out at Appendix 2. This change to the Constitution must be made in order to bring into effect the proposed changes to the UC Policy

On 1 February 2022, CPP considered the work of the IWG as set out at Appendices 1 and 2 to this report, and recommended that the proposed changes to the UC Policy and the Constitution be recommended to Cabinet.

2 Options Considered

Other options for the content of the UC Policy are not considered or proposed as this would undermine the work of the IWG.

Cabinet can resolve not to make any recommendations to Full Council following its review of the proposed changes to the UC Policy and Constitution set out at Appendices 1 and 2 respectively.

The Monitoring Officer attended the two meetings of the IWG and was satisfied the changes proposed are legally sound and within the Council's powers.

The most substantial proposed change to the current UC Policy is to make the Standards Committee responsible for determining appeals from complainants. This is not a process the Monitoring Officer is aware of being followed at any other authority; on a cross-sectional sample of other Councils' policies there was a wide range of different processes, mostly involving officers and often including Members as consultees. There is however no bar to the Standards Committees' terms of reference being extended to cover this function, and Cabinet is invited to consider the reasons why they consider this change is necessary.

Whilst it will incur additional resource to facilitate the hearing of appeals by Standards Committee, Cabinet Members may consider this resource proportionate in view of the limited use of the UC Policy (intended to be a matter of last resort) and that the potential significant interference with complainants' rights to contact their Councillors and the Council warrants involvement of Members at the appeal stage of the process.

3 Policy Implications

This report recommends changes to a Council Policy, and therefore Full Council will ultimately have to approve any recommended changes, along with changes to the Council's Constitution.

The Council's Equality Policy would apply to the consideration of any complainant under the Unreasonable and Persistent Complainants Policy.

4 Financial Implications

The proposed changes will require an additional resource requirement in terms of use of a venue for Standards Committee hearing any appeals from complainants and also officer time supporting those appeals, including preparing the reports and associated papers for the appeals and attendance at the appeals.

With regards to the regularity the UC Policy is used and the overall programme of Council Body meetings, this resource will be relatively minimal.

5 Personnel Implications

To the extent set out at section 4 above.

6 Environmental Considerations

None

7 Statutory Considerations

It is not a statutory requirement to have a UC Policy. The discretion on the content of any such policy is therefore wide.

8 Equality Impact Assessment (EIA)

Pre screening report attached

9 Risk Management Implications

Having a policy in place which is applied to complainants falling under the definition of the policy will form part of any relevant responses to the Local Government and Social Care Ombudsman, where complaints are progressed to them.

10 Declarations of Interest / Dispensations Granted

None

11 Background Papers

Guidance on managing unreasonable complainant behaviour from the Local Government & Social Care Ombudsman at <https://www.lgo.org.uk/information-centre/reports/guidance-notes/guidance-on-managing-unreasonable-complainant-behaviour>

Pre-Screening Equality Impact Assessment

Borough Council of
**King's Lynn &
 West Norfolk**



Name of policy/service/function	Unreasonable Complainants Policy				
Is this a new or existing policy/service/function?	New/ Existing (delete as appropriate)				
Brief summary/description of the main aims of the policy/service/function being screened.	<p>In a minority of cases, complainants may behave unacceptably, or be unreasonably persistent in the pursuance of their complaints or in the manner in which they engage with and towards the Council (officers and Members). This can impede investigation of their complaint (or complaints by others) and can have significant resource issues. The Unreasonable Complainants Policy is designed to be a proportionate approach when responding to unreasonable complainant behaviour and balancing resource needs in other areas of the Council.</p> <p>This policy is not rigidly constrained by statutory obligations</p>				
Please state if this policy/service is rigidly constrained by statutory obligations					
Question	Answer				
1. Is there any reason to believe that the policy/service/function could have a specific impact on people from one or more of the following groups according to their different protected characteristic , for example, because they have particular needs, experiences, issues or priorities or in terms of ability to access the service? Please tick the relevant box for each group. NB. Equality neutral means no negative impact on any group.		Positive	Negative	Neutral	Unsure
Age			X		
Disability	X	X			
Gender			X		
Gender Re-assignment			X		
Marriage/civil partnership			X		
Pregnancy & maternity			X		
Race			X		
Religion or belief			X		
Sexual orientation			X		
Other (eg low income)			X		

Question	Answer	Comments
2. Is the proposed policy/service likely to affect relations between certain equality communities or to damage relations between the equality communities and the Council, for example because it is seen as favouring a particular community or denying opportunities to another?	Yes / No	
3. Could this policy/service be perceived as impacting on communities differently?	Yes / No	
4. Is the policy/service specifically designed to tackle evidence of disadvantage or potential discrimination?	Yes / No	
5. Are any impacts identified above minor and if so, can these be eliminated or reduced by minor actions? If yes, please agree actions with a member of the Corporate Equalities Working Group and list agreed actions in the comments section	Yes / No	<p>Actions:</p> <p>Negative: Complainants with disabilities (physical health and mental health) may face challenges attending Standards Committee appeals, however these ought to be captured and assessed under the Council's current Equality Policy. <u>No actions therefore necessary.</u></p> <p>Positive: In certain cases, a complainant's cognitive abilities can be a factor that explains behaviour which may be deemed to fall under this Policy. Implementing an appeals process in which a complainant may be represented, put their own case forward and the involvement of the Independent Person could be seen to increase fairness towards those whose behaviour is attributable to a disability. <u>No actions necessary.</u></p> <p>Actions agreed by EWG member:</p> <p>.....</p>

If 'yes' to questions 2 - 4 a full impact assessment will be required unless comments are provided to explain why this is not felt necessary:

Decision agreed by EWG member:

Assessment completed by: Name	
Job title	
Date	

