

**STANDARDS AND ETHICS COMMITTEE OF COUNCIL:
29TH JANUARY 2013**

**REPORT OF THE CORPORATE CHIEF OFFICER FOR
COMMUNITIES ON**

**UPDATES TO THE COUNCIL'S COMPLAINTS POLICY AND
UNACCEPTABLE ACTIONS BY CUSTOMERS POLICY**

AGENDA ITEM: 4

Reason for this Report

1. To advise the Committee of the proposed changes to the Council's Complaints Policy and accompanying Guidance Notes. The main aims of the amended policy are to:
 - a. improve the customer experience;
 - b. help to maintain a consistent approach to handling complaints;
and
 - c. comply with guidance issued by the Public Services Ombudsman for Wales.
2. To advise the Committee of proposed changes to the current Persistent/Vexatious Complainants Policy that sets out the process for Council employees to identify and deal with customers who display unacceptable behaviour.

Background

3. In July 2011 the Welsh Government introduced a Model Policy and an accompanying Guidance Document for complaint handling for adoption by all public service providers in Wales. Although the Ombudsman has not exercised his formal powers so as to require public bodies to adopt the Model Policy, the Ombudsman "urges public authorities to adopt the policy and guidance". The Ombudsman has also indicated that he is monitoring its implementation amongst Local Authorities.
4. As a result a review has been undertaken of the current Complaints Policy and Procedure. It is proposed that the Model Policy be adopted (with certain amendments that will be explained verbally at the meeting). A copy of this new policy is at Appendix 1.

5. The Complaints Policy is closely linked with the Council's policy in relation to unacceptable behavior by customers. It is also proposed that amendments be made to this policy. A copy of the new policy is at Appendix 2.
6. The meeting will include a short presentation explaining the rationale behind the changes that are being made to the Complaints Policy and Procedure.

Reasons for Recommendations

7. The Committee's roles and functions include "monitoring the operation of the Authority's complaints... policy and making recommendations to the Council to improve their effectiveness".
8. Therefore the revised draft Complaints policy is being brought to Committee for discussion with a view to the Committee proposing an amended policy for adoption by Cabinet.
9. It is proposed that the existing policy relating to Vexatious/Persistent Complainants be widened so as to apply to all persons contacting the Council (rather than just complainants). Therefore it would no longer strictly fall within the role and functions of the Committee. However, as it is closely related to the actions of persons bringing complaints, it has being brought to the Committee for information purposes and any comments on it would be welcomed.

Legal Implications

There are no direct legal implications arising from this report. As set out above, the Ombudsman has not yet required the Council to adopt the Model Policy. However, he has informally indicated that his expectation is for Authorities to adopt the Model Policy and that if the Model Policy is not widely adopted he may make adoption compulsory.

Financial Implications

There are no direct financial implications arising from this report.

Recommendations

It is recommended that the Committee:

1. Note the contents of this report and contribute to discussions on the revised drafts of the Complaints and Unacceptable Actions by Customers Policies.
2. Agree any amendments to the draft Policies and delegate authority to the Corporate Chief Officer (Communities) in consultation with the Chair to make any further amendments to reflect the discussions of the Committee and to produce final drafts for submission to Cabinet.

**SARAH MCGILL
CORPORATE CHIEF OFFICER (COMMUNITIES)
JANUARY 24TH 2013**

The following are attached:

**Appendix 1: Cardiff Council Complaints Policy and Guidance Notes
(revised document)**

Appendix 2: Policy for Unacceptable Actions by Customers

The following Background Documents have been taken into account and copies are available on request:

1. Complaint Policy (existing document)
2. Procedure for Handling Complaints (existing document)
3. Persistent/Vexatious Complainants Guidance (existing document)

Corporate Comments, Complaints & Compliments Policy

Cardiff Council

Comments, Complaints & Compliments

We are committed to dealing effectively with any complaints you have about our services and if you make a complaint it will not affect your right to Council services. If we have made a mistake we will apologise and try to put things right. If we have failed to provide a service that you are entitled to and you let us know about this, we will provide it.

We review complaints regularly and produce an annual report that contains information about the number and type of complaints we have received. Wherever possible, we use this information to improve the way we do things. We also welcome comments and compliments about the services we have provided.

How to Complain

We want it to be simple and convenient for you to complain, make a comment or pay us a compliment. You can contact us by:

- filling in an online complaint form at www.cardiff.gov.uk
- calling our contact centre, Connect to Cardiff (C2C), on 029 2087 2087
- visiting our Help Centre at Cardiff Central Library
- visiting our Citizen Hubs
- using our Minicom service if you are deaf or hard of hearing (029 2087 2085)
- filling in a Complaint, Compliment & Comment Form and sending it to County Hall, Atlantic Wharf, Cardiff CF10 4UW
- e-mailing us at C2C@cardiff.gov.uk

We aim to make forms available at all Council buildings and appropriate locations in the community. If you need information in another format or language, please contact us.

What can you expect from us when you make a complaint?

If we receive a complaint from you, we will do all that we can to help you and we will try to find a solution to any problems you have brought to our attention. We will ensure that your complaint is sent to the relevant department/s for a response and ask them to:

- acknowledge your complaint within 5 working days of the date that they receive it
- aim to resolve the complaint within 20 working days - if your complaint is more complex they may need more time.
- let you know within the 20 working day period if they think it may take longer to investigate your complaint and tell you how long they expect it to take
- provide you with regular updates

We will respect your right to confidentiality and privacy and we will treat you fairly and in accordance with our commitment to equality.

If you are asking us for a service for the first time –such as reporting a faulty street light or a pothole - you should give us a chance to put things right. If you are not happy with our response and you let us know, we will then treat it as a complaint.

The person who is investigating your concerns will firstly aim to establish the facts. In some instances we may ask to meet you to discuss your concerns. Occasionally, we might suggest mediation or another method to try to resolve disputes.

The extent of the investigation will depend on the seriousness and complexity of the issues you have raised and in more complicated cases we may have to draw up an investigation plan. We will set out our understanding of your concerns and ask you to confirm that we have got it right. We will also ask you

to tell us what outcome you are hoping for. In some cases we may ask an officer from another service area to investigate your complaint or we may appoint an independent investigator from outside the Council – this would mainly apply to very serious situations or cases where there is a statutory procedure for dealing with the complaint, such as that used by Social Services.

We will look at relevant evidence and this could include files, notes of conversations, letters, e-mails or whatever may be relevant to your particular complaint. If you do not want the person investigating the complaint to see the files that we hold in relation to your complaint, it is important for you to let us know about this. If necessary, we will also talk to the staff or others involved and look at our policies and any legal entitlement and guidance.

Outcome

If we formally investigate your complaint, we will let you know what we have found and we will use your preferred form of communication, such as letter or e-mail, when we contact you. If necessary, we will produce a longer report. We will explain how and why we came to our conclusions.

If we find that we have done something wrong, we will tell you this, explain what happened and apologise. If we find there is a fault in our systems or the way we do things, we will tell you what it is and how we plan to change things to stop it happening again.

Putting Things Right

If there is a simple solution to your problem, we may ask you if you are happy to accept this. For example, where you asked for a service and we see straight away that you should have had it; we will offer to provide the service rather than investigate and produce a report.

If we did not do something well, we will aim to put it right. If you have lost out as a result of a mistake on our part we will try to put you back in the position you would have been in if we had got it right. If you had to pay for a service, when you should have had one from us, or if you were entitled to funding you did not receive, we will usually aim to make good what you have lost.

What we expect from you

We believe that all complainants have the right to be heard, understood and respected. However, our employees have the same rights and we will not tolerate unacceptable behaviour such as aggressive or abusive behaviour or unreasonable demands. We have separate guidelines to help us manage unacceptable behaviour.

The Public Services Ombudsman for Wales

You can contact the Public Services Ombudsman for Wales about your complaint at any time. However, the Ombudsman expects you to bring your concerns to our attention first and to give us a chance to put things right. The Ombudsman is independent of all government bodies and can look into your complaint if you believe that you, or the person on whose behalf you are complaining:

- have been treated unfairly or received a bad service through some failure on the part of the body providing it
- have been disadvantaged personally by a service failure or have been treated unfairly

You can contact the Ombudsman by:

- e-mailing: ask@ombudsman-wales.org.uk
- phoning: 0845 601 0987
- visiting the website: www.ombudsman-wales.org.uk
- writing to: Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ

Frequently Asked Questions

1. Are there any time limits that I should be aware of?

Normally, we will only be able to look at your complaint if you tell us about it within six months of the date that you first became aware of the problem. However, we may still consider your complaint if you provide strong reasons for taking longer than six months to tell us about the problem. In any event, regardless of the circumstances, we will not consider any concerns about matters that took place more than twelve months ago.

2. What if my complaint involves more than one organisation or department?

If your complaint involves more than one department, we will ask each department to prepare a response and, where possible, we will incorporate these into one letter of response.

If your complaint involves more than one organisation, we will work with these organisations to address your complaint and to decide who will take the lead in dealing with and responding to your concerns. For example, we sometimes work with South Wales Police, housing associations, the NHS and bailiffs.

Where possible, we will try to put you in touch with other organisations that might be able to help.

3. Are there any complaints that are not covered by this policy?

This policy does not apply if the complaint relates to a **Freedom of Information** or **Data Protection** request because there is a separate process for making complaints about this service. You can register these complaints by:

- e-mailing: FOI@cardiff.gov.uk
- phoning: 029 2087 3317
- visiting the Council website at www.cardiff.gov.uk
- writing to Improvement & Information, [Cardiff Council](#), County Hall, Atlantic Wharf, Cardiff, CF10 4UW

There are some other complaints that will be dealt with outside our complaints policy, such as: complaints involving a statutory right of appeal; complaints that are covered by a separate grievance process; complaints involving objections to planning permission and complaints about a decision not to give a child a place at a particular school.

However, if you have concerns about these processes we can offer advice about how to make your concerns known. We can also give you more information about other organisations that might be able to help you with your complaint. For example, the Welsh Language Board can look into complaints about services in Welsh.

4. Do you start from the date that I contacted you when you are counting the number of working days?

We count the number of working days from the date that we receive your complaint and we do not include weekends or bank holidays.

5. Do you always send letters when you are acknowledging complaints?

No, we sometimes contact complainants by telephone to acknowledge their complaints. We try to base the method of communication on individual preferences and, for example, if you have asked to be contacted by e-mail we will respond by e-mail.

6. Can I complain on behalf of another person?

Yes, but you must normally have their permission (signed permission) and you must explain why you are representing them and why they are unable to make the complaint.

7. I am under 18 – can I use the policy?

You can use this policy if you are under the age of 18 and if you need help to use it, you can speak to someone on the Meic Helpline (phone 080880 23456, www.meiccymru.org) or contact the Children's Commissioner for Wales using the details below.

01792 765600 (South Wales)

01492 523333 (North Wales)

post@childcomwales.org.uk

www.childcom.org.uk

South Wales Office:

Oystermouth House

Phoenix Way

Llansamlet

Swansea

SA7 9FS

North Wales Office:

Penrhos Manor

Oak Drive

Colwyn Bay Conwy

LL29 7YW

Cardiff Council

Comments, Complaints & Compliments

Guidance Notes

This policy comes into effect on

The Corporate Customer Services Team

The Corporate Complaints Policy

The Corporate Complaints team is responsible for the operation of the Council's Policy¹ and the policy is based on guidance from the Welsh Assembly Government and the Ombudsman.

The Corporate Complaints team will ensure that the policy is workable and that it is adhered to and will support staff by:

- offering training in complaint handling and customer service
- running plain language workshops
- holding quarterly complaint workshops
- offering advice about responses to complaints and difficult complainants
- advising departments about how to respond to recommendations in complaint reports and Ombudsman reports.

Publicising the policy

They will ensure that the complaints process is accessible by:

- putting the policy on CIS
- producing a bilingual complaints information leaflet and making it available in all Council buildings
- uploading information to the website
- providing information in other languages and formats if required

¹ The Monitoring Officer has delegated authority to make any consequential amendments to this procedure.

Other information that will help you to use the Complaints Policy more effectively:

- Policy for dealing with Unacceptable Behaviour from Complainants
- Data Protection Policy
- FOI Policy
- Equalities Policy
- Ombudsman's website
- WAG Model Complaints and Concerns Policy

Who does what?

The Corporate Complaints Manager

The Corporate Complaints Manager is the main point of contact for enquiries from service area Complaint Managers and the sole point of contact at the Council for the Ombudsman's office and managed complainants.²

The Service Area Complaint Managers (SACMs)

Each service area has a Complaints Manager and this person has responsibility for co-ordinating responses to complaints and for ensuring that complaints information (on websites and documents) is up to date and easily accessible. They are asked to ensure that complaints are acknowledged within **5 working days** and that customers are provided with full responses to their complaints within **20 working days**.

Complaints Managers are also responsible for advising complainants about what to do if they are not satisfied with the Council's response to their complaints. We have created a complaints information sheet for this purpose and we ask officers to send this with all acknowledgements or responses.

² These were formerly referred to as persistent and vexatious complainants.

SACMs should ensure that information about the Complaint Policy is prominently displayed at all points of service delivery and that all employees in the Service Area are aware of the policy and how to get an up to date complaint form from the Council's Intranet. Where possible they should keep templates for acknowledgment letters and complaint investigations.

If you want to know more about the work carried out by the Complaints Manager for your area, please contact the Corporate Complaints team for more information. Alternatively, you can contact the Complaints Managers directly.

Here are the mailbox contact details for complaints managers for each service area:

| Directorate | Service Area | Sub-Category | Service Area Mailbox Address |
|--------------------|------------------------------------|--------------------------------|--|
| Communities | Housing & Neighbourhood Renewal | H&NR | Communities.-HANRComplaints@cardiff.gov.uk |
| | | Community Maintenance Services | Communities.-HANRComplaints@cardiff.gov.uk |
| | Community Facilities | | Communities.-Comm.FacilitiesComplaints@cardiff.gov.uk |
| | Partnership & Equalities | | CSStrategy&Partnerships@cardiff.gov.uk |
| | Regulatory & Supporting Services | | RegulatoryComplaintsEnquiries@cardiff.gov.uk |
| Corporate | Finance | | CorporateServices.Complaints@cardiff.gov.uk |
| | Legal & Democratic Services | | Corporate-Legal&.DemocraticServComplaints@cardiff.gov.uk |
| | Scrutiny Performance & Improvement | | Corporate-Scrutiny.Perf&ImprovementComplaints@cardiff.gov.uk |
| People | Adult Services | | as-adultservicescomplaints@cardiff.gov.uk |
| | Children Services | | cscomplaints@cardiff.gov.uk |
| | Education | | EducationComplaints@cardiff.gov.uk |
| Place | City Development | Planning | CityDevelopment.Complaints&Enquiries@cardiff.gov.uk |
| | | Economy & Major Projects | CityDevelopment.Complaints&Enquiries@cardiff.gov.uk |

| | | | |
|---------------|----------------------------|-------------------------------------|---|
| | | Transport Strat. & Projects | CityDevelopment.Complaints&Enquiries@cardiff.gov.uk |
| | City Management | Harbour Authority | CityManagement.complaints@cardiff.gov.uk |
| | City Management | Culture, Tourism & Events | CityManagement.complaints@cardiff.gov.uk |
| | | Parks & Sport | CityManagement.complaints@cardiff.gov.uk |
| | | Network Management | CityManagement.complaints@cardiff.gov.uk |
| | City Services | Waste Management & Street Cleansing | CityServices.Complaints@cardiff.gov.uk |
| | | Highways Maintenance | CityServices.Complaints@cardiff.gov.uk |
| Shared | Central Transport Services | | SharedServices.complaints@cardiff.gov.uk |
| | Communication & Media | | SharedServices.complaints@cardiff.gov.uk |
| | Customer Services | | c2ccomplaints@cardiff.gov.uk |
| | HR People Services | | SharedServices.complaints@cardiff.gov.uk |
| | Internal Services | | InternalServices.- Complaints&Compliments@cardiff.gov.uk |

What is a complaint?

A complaint is an expression of dissatisfaction or concern and this can be written, spoken or made by any other communication method. It can be made by one or more members of the public³ or through a Local Councillor,

³ A *member of the public* is defined as anyone in receipt of a service by the public service provider in question or, indeed, denied a service to which they are entitled – this can be an individual or a group of people.

Assembly Member (AM), Member of Parliament (MP) or any other representative.

For example, a representative may deal with the complaint:

1. if the person affected has died
2. if the person affected is a child and is unable to make the complaint or wants to use an advocate (the Council accepts direct complaints from children)
3. if the complaint involves someone who lacks the capacity to make a complaint – using the definition of ‘capacity’ in the Mental Capacity Act 2005(1)
4. if the person affected has asked someone to make the complaint on their behalf

In the case of (2), (3) and (4), officers must be satisfied, as far as the circumstances of the person affected allow for it, that the representative is acting with the authority of that person. If possible they should obtain the signature of the person who is being represented.

A complaint will usually relate to the organisation’s action, inaction or standard of service and it will involve an issue that requires a response. If the complaint does not involve Cardiff Council services it is good practice to inform the customer about this and, if possible, provide alternative contact details.

A complaint is not:

- an initial request for a service⁴, such as reporting a faulty street light
- an appeal against a properly made decision by a public body

⁴ An example of a *request for service* is when a customer calls to say that their bins have not been emptied - the objective is to have the bins emptied and not to have a lengthy investigation into the issues.

- a means to seek change to legislation or a properly made policy decision⁵
- a means for lobbying groups/organisations to seek to promote a cause

Exceptions to the Complaints Policy

Normally, the Council will not be able to consider a complaint about a problem that occurred more than six months ago, especially if the complainant was aware of the issue at the time. The Council may be able to look at concerns which are raised after this time, but complainants would have to give strong reasons to explain why they did not bring the complaint earlier and the Council would need to have sufficient information about the issue to allow officers to consider it properly. In any event, regardless of the circumstances, we will not consider any concerns about matters that took place more than twelve months ago.

Complaints Managers should look at whether there are good reasons for accepting the complaint and, in making this decision; they should be supported by the relevant Council officers from the service area. The Corporate Complaints Manager will also be able to offer advice in these cases.

In addition, the following matters lie outside the Complaints Policy:

- 1) The Education Act 2002 requires the governing bodies of all maintained schools in Wales to establish procedures for dealing with complaints from parents, pupils, staff and members of the public. This includes complaints about the school and any community facilities or services that

⁵ A *properly made* decision is one where the relevant laws, policies and procedures have been correctly followed in arriving at a decision e.g. setting the council rent whether about the public service provider itself, a person acting on its behalf, or a public service provider partnership.

the school provides. Hence any complaints of this nature should be referred to the Governors of the school in question.

- 2) Children or young people wishing to complain about Social Services issues must follow the statutory complaints procedure.
- 3) Adult Services has its own statutory procedure.
- 4) Decisions that have their own appeal process, (such as Planning Decisions). Customers should be advised about the relevant appeals process.
- 5) Allegations of financial impropriety will be notified to the Internal Audit section.
- 6) Complaints alleging criminal activity will be referred to the Police, where appropriate.
- 7) Complaints against Councillors will be referred to the Chief Officer, City and County Solicitor and thereafter to the Ombudsman.
- 8) Complaints against approved Council policies, about the merits of performing a duty imposed by legislation and against working practices or procedures established by service areas.
- 9) Complaints from members of staff that relate to employment issues. There are other internal mechanisms for these type of concerns, for example, whistle-blowing, bullying, or grievance procedures (held on CIS).
- 10) Complaints about the Freedom of Information process and Data Protection issues are the responsibility of the Improvement and Information Management team.

Complaint Investigation

The Model Complaints and Concerns policy from the Welsh Assembly Government states the following:

‘Investigate once, investigate well’ is the principle for this stage of the process. Emphasis should be placed on one investigation to deal thoroughly with the concerns raised, rather than multiple investigations at different levels in the organisation, which can result in protracted and sometimes open ended investigations...the complaints process is intended to be flexible to respond appropriately to the complaint. ‘Investigating well’ also means conducting an investigation in a manner that is proportionate to the nature and degree of seriousness of the complaint. Proportionate means that for those complaints not so serious in their nature, the investigation may not need to be so detailed.

With this in mind, officers should aim to resolve complaints at the earliest opportunity to avoid the need for a lengthy, formal investigation. Examples of the type of concern that can be resolved at the local resolution stage are:

- an appointment was made for a boiler to be fixed and the tenant has complained about the fact that no-one turned up on the appointed day
- a customer complained that their bin had not been emptied by the refuse collection service when it should have been

However, if the issue cannot be resolved in this way or if customers want to have their complaints formally investigated, officers should set up a formal investigation of the complaint. As long as a complaint fits the relevant criteria to be entered into the Council’s formal Complaint Policy, officers should:

1. confirm that the complaint involves a Council service (or lack of service) and that it is not intended for another organisation

2. identify what the complaint is about and the number of service areas involved – each service area involved in a complaint should log the complaint in the normal way and the service area with the biggest proportion of the complaint should take the lead in co-ordinating and replying to the complaint⁶
3. establish whether it is within the Council's powers to resolve the issue and consider what the complainant has asked for (the complaint form asks customers what they are seeking from the process)
4. consider whether the complaint will have to be dealt with by someone outside the department or service area – for example, if it involves allegations against senior members of staff from the service area, it would not be appropriate for them to investigate the complaint and the matter should be referred to the Corporate Complaints Manager
5. log the complaint using the appropriate departmental system – all departments involved in multi-service complaints should log the complaint
6. consider whether the customer has any special requirements and make arrangements to assist if necessary

Complaints Managers should keep a comprehensive list of advice and advocacy organisations that are relevant to their services and which might assist customers with special requirements. Complaints Managers or other officers who are dealing with a complaint should offer this information to complainants who require or request support. For example:

⁶ The Corporate Complaints Officer can help if there is disagreement about responsibilities.

- Advocacy services
 - Language support services
 - Welfare advice agencies
 - Age Concern
 - The Children's Commissioner for Wales
 - Meic Helpline
7. get information about the customer's preferred form of contact and use this unless the customer asks for it to be changed
 8. acknowledge the complaint within **5 working days** and provide the customer with an information sheet about the Complaints Policy and, if necessary, additional advice in relation to special requirements
 9. investigate all of the issues and identify possible remedies⁷
 10. respond in full within **20 working days**, covering all of the issues raised
 11. if the Council is at fault, apologise and explain how the problem occurred and what the service area is going to do to stop it happening again
 12. keep the complainant informed about possible delays, apologise for delays, provide reasons for delays and give new deadlines
 13. provide information about what customers can do if they are unhappy with the Council's response - details of how to contact the Public Services Ombudsman for Wales

⁷ The aim of the remedy is to put the complainant back in the position they would have been in if nothing had gone wrong. Where this is not possible, as will often be the case, the remedy should fairly reflect the harm the complainant has suffered. Appropriate redress can take many forms and this includes an explanation and apology, remedial action, financial compensation, or a combination of these.

Dealing with Unacceptable Behaviour from Complainants

The Council has a separate policy for dealing with unacceptable behaviour from customers. Please refer to the Guidance on CIS.

Complaints Record Keeping

Complaints are confidential and all correspondence should be stored securely at all times, with access to files limited to those involved in dealing with the complaint. Those dealing with complaints should be aware of the rules about storing copies and about retention times – if you are disposing of paper copies, please use confidential waste bags or ensure that the documents are shredded.

Officers should be aware that complainants can ask to see copies of files and that the Ombudsman can also request copies of files. It is important to ensure that files are kept in good order and that all correspondence is professional and meets the standards set out in, for example, the *Cardiff Council E-mail Best Practice Guidance* that is available on CIS. The Corporate Complaints Manager can also offer information about the Council's Plain Language Policy and templates for letters.

Service Areas are expected to keep records of the complaints they receive and Complaints Managers are expected to submit monthly complaints reports to the Corporate Complaints teams using an online form. This form records a limited amount of information and it is good practice for service areas to keep detailed records about the type of complaints received and to review complaints (monthly or quarterly) with a view to learning from mistakes and improving processes.

Complaint Investigations – treatment of staff

Whilst it is not uncommon for people to look for someone to blame when things go wrong, staff should be assured that this is not the aim of a complaint investigation. It should be made clear that where interviews are used, they are part of an effort to establish the facts of the case and do not form part of a disciplinary procedure. However, a separate disciplinary process could take place if appropriate and this would be covered by a different policy.

Any member of staff who is asked to attend an interview should be advised about the purpose of the interview, what to expect and what preparation to do. They should be informed that they can bring someone along for support, such as a colleague, although the role of the supporting person should be clarified in advance and the need for confidentiality should be emphasised. They should also be advised about what will happen after the interview.

It is important to keep staff informed about investigations and their outcomes and to make sure they have information about the support or counselling services that are available.

Public Services Ombudsman for Wales – relationship with Cardiff Council

The Public Services Ombudsman for Wales is appointed by the Queen to look into complaints about public services in Wales. He is independent and unbiased and investigates complaints by members of the public who feel they have suffered injustice as a result of maladministration. The Ombudsman can investigate complaints of maladministration about most Council matters including Social Services, Housing issues, Planning, Education, Waste Management and Council Tax, to name a few. The Ombudsman prefers complaints to be dealt with through the Council's Complaint Policy and he expects complainants to have given the Council the opportunity to resolve the complaint. However, he can be approached at any stage in the complaints process.

The Ombudsman also has the power to investigate allegations that members (Councillors) of local authorities in Wales have failed to comply with the Authority's Code of Conduct.

The Ombudsman's contact details are:

- e-mail: ask@ombudsman-wales.org.uk
- phone: 0845 601 0987
- address: Public Services Ombudsman for Wales, 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ.

What happens when the Ombudsman asks the Council for information about a complaint?

The Ombudsman's officers will contact the Corporate Complaints Manager if they require information from the Council and each service area has an obligation to respond promptly to requests for information from the Corporate Complaints Manager. The Ombudsman monitors the Council's ability to respond promptly and to provide all of the information requested – his assessment appears in the Annual Summary of Performance.

When the Ombudsman sets a deadline, he does not expect officers to use all of the time available and it is not good practice to leave responses to the last few days or to ask for extensions without offering good reasons.

When the Ombudsman issues a report, draft or final, he sends it to the Chief Executive and he passes it to the Corporate Complaints Manager who shares the information with the relevant departments, co-ordinates responses and provides the Ombudsman with information about compliance with recommendations.

Customer Care Guidance

The way we treat our customers matters because they judge us on a single experience. If that experience is poor, it affects the way they see us.

To our customers you are the Council. Employees will deal with all complaints in a civil and polite manner because the Council recognises that many complaints will relate to issues of genuine concern and difficulty.

However, we expect complainants to also conduct themselves with courtesy to employees trying to assist them.

Complaints from representatives

The Council sometimes receives complaints or requests for services from individuals purporting to represent anonymous members of the public. This can cause confusion and uncertainty resulting in scarce resources being used in responding to such communications when direct contact with the concerned member of the public would be more productive.

Such matters should be dealt with as follows: -

Elected Representatives

Complaints/requests from the public received via Councillors (or MP or AM) should be dealt with in the normal way and in consultation with Members as necessary. (Correspondence from Members is outside the Complaint Policy and the complainant should be provided with details of the Public Services Ombudsman for Wales).

Official Representatives

Complaints/requests received from named individuals via other recognised representatives, including Solicitors, family members and charities/voluntary organisations such as Shelter, etc, will receive a response in accordance with the usual practice provided the Council is reasonably satisfied that they are genuine (i.e. in accordance with Complaint Policy if the issue is a complaint).

Other Representatives

Complaints or requests received from other individuals will be treated carefully. Often, requests refer to several complaints received but do not identify the customer(s). A response will be sent which indicates that the customer(s) will be contacted direct if names and addresses are supplied, or alternatively the writer should refer them to the relevant service area or local Member (giving contact points). It is appropriate at this point to refer the writer to the Council's Complaint Form, suggesting that the individuals they claim to represent may wish to complete it and send it in. Any letters of complaint or complaint forms received from those individuals will be dealt with in accordance with the Complaint Policy.

The Council will also have regard to confidentiality when dealing with these issues.

Cardiff Council

Unacceptable Actions by Customers

Please note: This version is designed for officers and contains additional guidance on its operation (the text that is in italics and the “comments”). The published version will not include this additional guidance.

1. Introduction

We will respond with patience and understanding to the needs of customers but there are times when customers make unreasonable demands or behave in unacceptable ways. This policy sets out our approach to the relatively few customers whose behaviour is considered unacceptable.

In this policy the term ‘customer’ includes anyone acting on behalf of a customer.

2. Policy Aims

This policy aims to ensure that a consistent and fair approach is taken in relation to:

- a. the type of behaviour that might be regarded as inappropriate;
- b. how inappropriate behaviour is dealt with; and
- c. the sanctions or restrictions the Council may impose in response to a customer’s inappropriate actions or behaviour.

3. What is unacceptable behaviour?

It is difficult to produce a comprehensive list of the actions that would be deemed inappropriate. However, we have given examples of unacceptable behaviour under two broad headings below. Ultimately it will be a matter for the Council’s Monitoring Officer

Comment [D1]: This section defines what type of behaviour is inappropriate.

It is impossible to list every type of behaviour that might be considered to be inappropriate. This just tries to provide a summary

If you think that a customer’s behaviour is inappropriate then always discuss this with your line manager.

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to decide whether a particular customer's actions or behaviour are inappropriate, having regard to the circumstances of each case.

a. **Aggressive or Abusive Behaviour**

The Council expects staff to be treated with courtesy and respect. The Council also understands the difference between aggression and reasonable annoyance that a customer may feel in connection with a complaint. Reasonable annoyance in relation to a complaint is to be expected, but when this turns into inappropriate behaviour or aggression it is not acceptable. Violence, threats or abuse towards staff (or anyone else) is always unacceptable.

Comment [D2]:

In the event of a customer being violent, making threats or being abusive always discuss this with your line manager.

You should also make a written record of the incident as soon as it is practical to do so.

Examples of behaviour that would fall under this heading include:

- shouting;
- making threats;
- using physical violence or intimidation;
- verbal abuse;
- derogatory remarks;
- inflammatory statements; and
- unsubstantiated allegations.

Violence includes acts of aggression that may result in physical harm; it also includes behaviour or language that may cause staff to feel afraid, threatened or abused. It can also include acts or threats against property, such as breaking furniture or sending computer viruses.

b. **Unreasonable Demands**

Customers may make what are considered to be unreasonable demands on the Council through the amount of information they seek, the nature and scale of

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service they expect or the volume of correspondence they generate. The Council accepts that persistence is not necessarily a form of unacceptable behaviour. What amounts to unreasonable demands will always depend on the circumstances of the complaint and the seriousness of the issues raised by the customer.

Examples of behaviour that would fall within this heading include:

- inappropriate frequent visits, phone calls, emails or letters;
- insisting on seeing or speaking to a particular member of staff when a suitable alternative has been offered;
- routinely ignoring the procedures for dealing with queries or complaints (for example, copying the same correspondence to a number of people at the Council, thereby making it difficult for us to provide a co-ordinated response);
- demanding a response within an unreasonable time-scale;
- not accepting that the issues raised are not within the Council's remit despite having been informed that this is the case;
- being unable to identify the precise issues a customer wants the Council to deal with or investigate despite the Council having taken reasonable steps to assist the customer with this task;
- inappropriately changing the substance of a query or complaint while the Council is dealing with it;
- frequently raising peripheral and, possibly, trivial matters that do not relate to the main query, complaint or Council services;
- pursuing a complaint after the Council's Complaint Policy has been fully implemented and exhausted; and
- insisting that the Council has not provided an adequate response to a query or complaint, despite evidence that the Council has provided a comprehensive response.

Comment [D3]:

Where the communication with the customer is not in writing, you should make a written record as soon as it is practical to do so.

This written record can then be used as evidence to show that a customer's behaviour has been inappropriate.

4. What happens when a customer's behaviour is deemed unacceptable by the Council

Comment [D4]:

This section and section 5 explains what you should do in the event you think a customer is behaving in an inappropriate way.

There are relatively few customers whose actions are considered by the Council to be unacceptable. How these actions are managed depends on their nature and extent. In the event of an officer of the Council considering a customer's actions to be unacceptable:

- a. They may immediately inform the customer that their behaviour is inappropriate and politely terminate any conversation or phone call with the customer.
- b. If violence, abuse or harassment is used or threatened the incident may be reported to the police and/or may result in the customer being added to the Council's list of potentially aggressive persons. This will always be the case if physical violence is used or threatened.

Comment [D5]:

This gives you the ability to immediately terminate a call or conversation with a customer if they are acting in an inappropriate way.

A customer should initially be advised that their behaviour is unacceptable to allow them the opportunity to adjust this appropriately. Please refer to your line manager to confirm specific Service Area guidelines.

If the behaviour is seriously or consistently inappropriate (or otherwise adversely affects the Council's ability to do its work effectively) an officer may refer the customer to the Monitoring Officer. The Monitoring Officer shall then consider whether action should be taken to restrict or manage the customer's behaviour. In such cases the steps outlined at paragraph 5 and **Error! Reference source not found.** shall be followed.

Comment [D6]: This section particularly relates to the use or threat of violence.

If a customer is violent or makes threats you must always discuss this with your line manager.

Line managers will take the appropriate action and can liaise with the Corporate Complaints Team if further advice is required.

5. Management of unacceptable behaviour

If an officer of the Council is of the opinion that a customer's actions or behaviour are unacceptable they shall, in the first instance, discuss this with their line manager in order to consider any informal steps that can be followed to resolve the concerns.

Comment [D7]:

You (or the line manager) may also wish to contact the Corporate Complaints Team to see whether they are aware of the individual and whether they have any suggestions as to how to deal with the issue informally.

In the event that no informal steps are appropriate or informal attempts to resolve the concerns do not work, the officer may make an application for formal steps to be taken. In such circumstances the officer will produce a written summary of the actions and

You (or the line manager) should also consider referring the customer to other service areas if appropriate (such as contacting adult services if you believe there may be mental health issues).

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behaviour that they consider to be inappropriate and submit it to the Monitoring Officer for determination.

The Monitoring Officer shall consider the report and provide a written response indicating whether the customer's actions have been deemed inappropriate by the Council. If the customer's actions are deemed inappropriate, the Monitoring Officer shall write to the customer to set out:

- a. the behaviour that is considered to be inappropriate; and
- b. the action that will be taken as a result of the inappropriate behaviour.

Where a customer has acted inappropriately the Monitoring Officer may impose restrictions and conditions to resolve the problems caused by the inappropriate behaviour including the following steps:

- a. Restricting:
 - i the manner in which the customer may contact the Council
 - ii the times at which the customer can contact the Council
 - iii the people the customer can contact at the Council
 - iv the duration of calls or meetings with the customer.
- b. Informing the customer that the Council will not respond to further communication relating to certain matters or that the Council will only respond to communication relating to specific matters.
- c. In extreme situations, the customer will be told in writing that their name is on a 'no personal contact' list. This means that they must restrict contact with the Council to either written communication or communication through a third party.

Comment [D8]:

Should you wish to report a Customer to the Monitoring Officer please contact the Corporate Complaints Team in the first instance.

The Corporate Complaints Team will be able to provide you with a template report. You will need to complete this report and:

- Include full details of why you think the customers actions are inappropriate; and
- Attach any evidence of inappropriate behaviour (such as copies of emails, or notes of telephone conversations).

The Corporate Complaints Team will be able to assist you with the preparation of this report. Once it is complete the Corporate Complaints Team will forward it to the Monitoring Officer for review.

Comment [D9]:

The Monitoring Officer will aim to provide a decision within 10 working days of an application being made and will inform the Corporate Complaints Team within that period.

If the Monitoring Officer decides that restrictions should be imposed on the customer, the Monitoring Officer shall write to the customer informing them of the decision and the restrictions that are being imposed.

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- d. Where a customer continues to correspond on a wide range of issues and this correspondence is considered excessive, the customer may be told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly.
- e. Taking any other action that the Monitoring Officer considers appropriate. The Monitoring Officer will, however, always tell the customer what action is being taken and why.

When imposing restrictions the aim will be to do this in a way, wherever possible, that allows a complaint to progress to completion.

Any restriction imposed shall be subject to regular review (at least every six months) and the timing of such reviews will be set out when the Monitoring Officer writes to the customer to explain the restrictions.

Any step required to be taken by the Monitoring Officer under this policy may also be undertaken by the Deputy Monitoring Officer or any officer that the Monitoring Officer authorises for that purpose.

Comment [D10]:

The Corporate Complaints Team will maintain a register of restrictions that have been imposed.

When restrictions are due to review, the Corporate Complaints Team will review the file, talk to the officers who made the referral and decide whether it is appropriate to seek an extension of the restrictions.

If it is decided that the restrictions should be extended (for example if the customer has shown no signs of improving their behaviour) then the Corporate Complaints Team will approach the Monitoring Officer to seek an extension. If the Monitoring Officer agrees, the Monitoring Officer shall again write to the customer informing them of the decision.

If it is decided that the restrictions do not need to be extended, the Corporate Complaints Team shall write to the customer informing them that the restrictions are no longer in place.