

## **CAERPHILLY COUNTY BOROUGH COUNCIL**

### **POLICY AND PROCEDURE FOR DEALING WITH UNACCEPTABLE, PERSISTENT OR UNREASONABLE ACTIONS BY COMPLAINANTS UNDER THE COUNCIL'S CORPORATE COMPLAINTS POLICY**

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## **1. Introduction**

This policy document sets out the approach by Caerphilly County Borough Council (“the Council”) to the rare instances where persons who complain under the Council’s Corporate Complaints Policy do so in such circumstances that their actions or behaviour do not justify expending further resources.

Such instances are very rare but typically involve persons who refuse to accept ‘closure’ and constantly write in or verbally reiterating the same complaint and thus waste time and effort and consequentially public monies on unnecessary and/or disproportionate investigation. The term complainant includes anyone acting on behalf of a complainant or who contacts the Council in connection with a complaint.

## **2. Policy Aims**

To deal and respond fairly, honestly, consistently and appropriately with all complainants, including those whose actions we consider unacceptable. The Council believes that all complainants have the right to be heard, understood and respected and receive an appropriate response in line with the Council’s Complaints policy and to comply with Article 10 of the European Convention on Human Rights (ECHR) – freedom of expression. To advise all complainants, both at initial contact and throughout their dealings, what we can or cannot do in relation to their complaint. In doing so, we aim to be open and not raise hopes or expectations that we cannot meet or would not be a proportionate outcome. We also aim to ensure that other complainants and Council officers do not suffer any disadvantage from those complainants who act in an unacceptable manner. To have a stated position, policy and procedure that explains how and why the Council will disengage with complainants who act in an unreasonable or unacceptable manner.

## **3. Defining Unacceptable Actions by Complainants**

People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint received. There may also be occasions where medical, mental health or disability-related issues are involved whereby people appear aggressive through no fault of their own, leading to misunderstandings that can escalate complaints seemingly out of nowhere.

It is accepted that being persistent can be a positive advantage when pursuing a complaint, however, the actions of complainants who are ‘unreasonable’ and/or have unrealistic expectations places unnecessary demands on the Council and its officers. It is only those actions that we

consider to be unreasonable or unacceptable that we aim to manage under this policy. \*\* Officers are reminded that where the actions of a complainant are not covered in this policy they must refer to the Health and Safety policies and seek appropriate guidance from their Head of Service in conjunction with the Corporate Health and Safety Division. Contact the Equalities and Welsh Language team for any equalities related issues (including relevant training).

For ease of reference the unreasonable actions covered by this policy are grouped under three broad headings: -

### **3.1 Abusive Correspondence**

- (a) This includes correspondence that may cause staff to feel afraid, abused or adversely affects their dignity in the workplace. On occasions such correspondence may amount to harassment and may require a referral to the Health and Safety Division. Officers should first seek guidance from their Head of Service if such circumstances arise.

### **3.2 Unreasonable Demands**

- (a) A Complainant may make what we consider unreasonable demands through the amount of information they seek, the nature and scale of service they expect or the number of approaches they make. What amounts to unreasonable demands will always depend on the circumstances surrounding the behaviour and the gravity of the issues raised by the complainant.
- (b) Examples of actions grouped under this heading include demanding responses within an unreasonable timescale, insisting on seeing or speaking to a particular member of staff, continual phone calls or letters, repeatedly calling at offices seeking personal contact, repeatedly changing the substance of the complaint or raising unrelated concerns with the intention of prolonging the outcome or diverting enquiries.
- (c) We consider these demands as unacceptable and unreasonable if they: -
- Take up an excessive and disproportionate amount of staff time and resource implications;
  - Disadvantage other complainants or departmental functions
  - Are judged as intended to disrupt;
  - Deliberately exaggerate the impact of the issue complained of

It is acknowledged that some complaints will require substantial investigation and resources, which are entirely necessary and proportionate.

### **3.3 Unreasonable Persistence**

- (a) We recognise that some complainants will not or cannot accept that the Council is unable to assist them further or provide a level of service other than that provided already. Complainants may persist in disagreeing with the action or decision taken in relation to their complaint or contact the service/organisation persistently about these issues. The final letter to a complainant will include a signpost to the Public Services Ombudsman For Wales (the Ombudsman). It is recognised that some complainants may have already sought a complaint handling review from the Ombudsman and received a response but continue to pursue the matter with the Council.
- (b) Examples of actions grouped under this heading include: -
- Persistent refusal to accept a decision made in relation to a complaint;
  - Persistent refusal to accept explanations relating to what the Council can or cannot do;
  - Continuing to pursue a complaint without presenting any new or relevant information;
  - Providing fictitious or manufactured evidence to pursue what may have been a true complaint;
  - Manufacturing complaints against members of staff when the complainant disagrees with an outcome;
  - Endeavouring to pursue a complaint by multiple approaches to different service areas of the Council. The way in which the complainant approaches the Council may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.
- (c) We consider the actions of persistent complainers to be unacceptable when they take up what the Council regards as being a disproportionate amount of time and resources.

## **4. Managing Unacceptable Conduct by Complainants**

There are relatively few complainants whose conduct we may consider unacceptable. How we aim to manage this conduct depends on its nature and extent. Where Officers have concerns about or difficulties with their

dealings with any complainant, in addition to the provisions below they are also advised to complete a chronology of contacts utilising the form attached at Appendix 1.

If it adversely affects the ability of an officer to do his/her work and provide a service to others, the Council may need to restrict complainant contact in order to manage the unacceptable conduct. We aim to do this in a way, wherever possible, that allows a complaint to progress to completion through the established corporate complaints process.

We may restrict contact in person, by telephone, fax, letter or electronically or by any combination of these, examples of which are set out below. We will try to maintain at least one form of contact. In extreme cases and where it is appropriate, we will advise the complainant in writing that their name is on a 'no personal contact' list. This means that they must restrict contact with the organisation in relation to any complaint matter to either written communication or through a third party.

These steps should only be taken after careful consideration of the situation by the relevant Head of Service.

It is acknowledged that unreasonable people may make reasonable complaints and it is important that Officers take note of the matters being referred to ensure that they do not overlook a genuine concern. The threat or use of physical violence, verbal abuse or harassment towards any member of staff is likely to result in the ending of all direct contact with the complainant and must be dealt with under the Council's Health and Safety Policies. We do not accept correspondence (letter, fax or electronic) that is abusive to staff. When this happens we will tell the complainant that we will not respond to their correspondence.

If they do not stop, the complainant will be advised that we may require future contact to be through a third party. Staff may end telephone calls if the caller is considered aggressive, abusive or offensive. The staff member taking the call has the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop. Officers are advised to report this type of behaviour to the relevant Head of Service.

Where a complainant repeatedly phones, visits any of the Council offices sends irrelevant documents or continually raises the same issues, we may decide to: -

- Only take telephone calls from the complainant at set times on set days and/or appoint a single point of contact to deal with calls or correspondence from the complainant in the future

- Require the complainant to make an appointment before visiting the Council offices or restrict contact to written correspondence only
- Return 'irrelevant' documents to the complainant
- Take other action that we consider appropriate

We will, however, always tell the complainant what action we are taking and why.

Where a complainant continues to correspond on a wider angle of issues, and this conduct is considered unreasonably excessive, then the complainant 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. The Council's response will be proportionate to the nature of the given allegations.

Complainant action may be considered unreasonably persistent if the Council's corporate complaints policy has been exhausted and the complainant continues to persistently dispute the decision relating to their complaint. The complainant may be told that no future phone calls will be accepted or interviews granted concerning this complaint. Any future contact by the complainant on this issue must be in writing. Future correspondence may be read and filed, but only subject to further enquiry or review if the complainant provides significant new information relating to the same complaint.

The complainant will receive a written acknowledgement that their correspondence has been read, assessed and placed in their file. Officers who propose this course of action should first consult with the Head of Service.

## **5. Restricted Contact**

Wherever possible, we will give a complainant the opportunity to modify their behaviour or action before a decision is taken. Complainants will be told in writing why a decision has been made to restrict future contact and what the restricted contact arrangements are.

## **6. Dissatisfaction about a Decision to Restrict Contact –**

If a complainant is dissatisfied with the decision to restrict then the complainant may refer the matter to the Council's Monitoring Officer to review the decision.

Once restriction of contact has been notified, subsequent correspondence from complainants should be carefully considered to ensure that no new circumstances are being reported which should otherwise be subject to

separate complaint or significantly affect any decision on the matter complained of.

**7. Recording and Reviewing a Decision to Restrict Contact**

We will record all incidents of unacceptable actions by complainants. Where it is decided to restrict complainant contact, an entry will be made in the relevant Complaints file, setting out the decision and the revised contact arrangements. A decision to restrict complainant contact may be reconsidered if the complainant is prepared to appropriately engage with the Council's procedure and protocols as set out in this document. The relevant Head of Service will review the status of all complainants with restricted contact arrangements on a regular basis should that person continue to correspond with the service.

**8. Policy Review**

This policy will be reviewed every 2 years.

Next date for review is .....

Appendix 1

Chronology of Contact

| DATE /<br>TIME | INCIDENT/OBSERVATION/CHANGE<br>OF CIRCUMSTANCES | ACTIONS/OUTCOMES | SOURCE OF<br>INFORMATION |
|----------------|---|------------------|--------------------------|
|                |   |                  |                          |
|                |   |                  |                          |
|                |   |                  |                          |
|                |   |                  |                          |
|                |   |                  |                          |