



## **CABINET 24TH MARCH 2021**

**SUBJECT: REVIEW OF CORPORATE COMPLAINTS POLICY AND UNACCEPTABLE BEHAVIOUR POLICY**

**REPORT BY: HEAD OF DEMOCRATIC SERVICES AND DEPUTY MONITORING OFFICER**

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### **1. PURPOSE OF REPORT**

- 1.1 The purpose of this report is to ask Cabinet to consider the views of the Audit Committee on the model Concerns and Complaints Policy at Appendix 1, the Statement of Principles at Appendix 2 and the Unreasonable Persistent or Unreasonable actions by Complainants Policy at Appendix 3 and to ask Cabinet to endorse these documents. Cabinet is also asked to support the reporting mechanisms set out in paragraph 5.11.

### **2. SUMMARY**

- 2.1 The purpose of this report is to ask Cabinet to review the comments of the Audit Committee and to endorse the new Concerns and Complaints Policy attached at Appendix 1 which is based on the model document issued by the Ombudsman, together with the associated Statement of Principles attached at Appendix 2. These principles underpin the complaints handling process.
- 2.2 In light of the introduction of the new Model policy it is also timely to ask Cabinet to review and endorse the provisions of the existing Policy for dealing with Unacceptable, Persistent or Unreasonable actions by Complainants.

### **3. RECOMMENDATIONS**

- 3.1 Cabinet is asked to consider the views of the Audit Committee which will be presented verbally and to endorse the model Concerns and Complaints Policy at Appendix 1, the Statement of Principles at Appendix 2 and the Unreasonable Persistent or Unreasonable actions by Complainants Policy at Appendix 3.
- 3.2 Cabinet is also asked to endorse the reporting mechanisms so that Cabinet receives reports twice yearly.

#### **4. REASONS FOR THE RECOMMENDATIONS**

- 4.1 Under its terms of reference the Audit Committee has responsibility for overseeing and monitoring the outcome of complaints and for reviewing the policy including the adequacy and effectiveness of the policy and the adoption of the Complaints Policy is a Cabinet function.

#### **5. THE REPORT**

- 5.1 By way of background, members will be aware that the Council's current Complaints Policy was adopted by Cabinet in February 2013 following Welsh Government guidance issued in 2011. Save for minor changes the current Policy has been in place since that date. However overtime the Ombudsman has recognised that a diverse range of complaints practices has emerged and so the aim of the new guidance and policy outlined below is to bring practices back into broad alignment, providing basic standards, a common language and a set of principles to underpin how complaints are handled throughout public services.
- 5.2 In 2019 the Ombudsman gained new powers under the Public Services Ombudsman for Wales Act 2019 which received Royal Assent in May 2019. Part 4 of the 2019 Act sets out complaints handling procedures and in accordance with this part of the Act the Ombudsman published a Statement of Principles concerning complaints handling procedures, and a model complaints handling policy together with associated guidance on the implementation of the new model Concerns and Complaints Policy.
- 5.3 The Complaints Standards Authority (CSA) was also created within the Ombudsman's office which has been developing standards for complaints handling across the bodies within the Ombudsman's jurisdiction. It is also gathering data to identify trends and patterns in public service delivery and has been providing training and support to complaints handlers in public bodies to support learning from complaints which has been taken up by officers at Caerphilly.
- 5.4 Against this backdrop, on 30<sup>th</sup> September 2020, the Ombudsman wrote to all Local Authorities to confirm that the Statement of Principles, Model Complaint Handling Process, and Guidance were in full effect and in compliance with Section 38 of the new Act requested all public bodies to reflect on how their own practices and procedures comply with the stated guidance and how they will ensure that all complaints are captured appropriately. All Councils have been asked to provide a copy of its updated complaints handling procedure by 31<sup>st</sup> March 2021.
- 5.5 The updated guidance recognises that organisations will need to interpret it in a way which is appropriate to their own circumstances. However, it is explicit that the arrangements for managing complaints behind the scenes must not detract from the service user's perception of a common approach, so elements such as the form, the timescales and the number of stages should be consistent for all.
- 5.6 Members are therefore asked to consider the Model Concerns and Complaints Policy attached at Appendix 1, the Statement of Principles at Appendix 2 and the Council's existing Policy relating to Unacceptable, Persistent and Unreasonable Complainants at Appendix 3. For completeness a copy of the Ombudsman's guidance is attached at Appendix 4.

## **The draft Model Concerns and Complaints Policy**

- 5.7 Members will be aware that the policy is designed to deal with corporate complaints and that there are separate complaints processes for dealing with school-based complaints and social services complaints. The Social Services Complaints Procedure Wales Regulations 2014 outlines the procedure for handling complaints from persons receiving a service from social services and school-based complaints are dealt with by the School and Governing Body. In addition, Freedom of Information complaints and complaints about Data Protection matters are within the remit of the Information Commissioner. As such the policy directs complainants to the appropriate contacts.
- 5.8 The new Model Concerns and Complaints Policy and guidance has been shared with complaints officers and the Council's Corporate Management Team. Overall there is no change to the two-stage approach which will remain with the right to escalate a complaint to the Ombudsman should a complainant be dissatisfied with the response. That said, while the actions we take will remain the same in terms of dealing and responding to contacts and concerns, there will be a greater emphasis on the way in which we record contacts and complaints under the Policy. The stage 1 informal resolution process will become more part and parcel of front-line service delivery and not viewed as separate from it. Staff will be empowered and trained to recognise a complaint and to deal with them as they arise with the aim of resolving issues on the spot. As a result members are likely to see an increase in the number of complaints recorded and reported.
- 5.9 To support this change, senior officers within Customer Services are undertaking a scoping exercise with a service provider to streamline the process both internally and customer facing to provide the customer with a more efficient and focussed service. The Ombudsman's office has offered to provide further training to all authorities in the coming year as required.
- 5.10 Cabinet are advised that Audit Committee received regular reports on the existing complaints process and that officers have established a Learning from Complaints Group which comprises Complaints Officers across the authority, the Corporate Complaints Officer ( who is responsible for maintaining the central complaints record), the Council's Senior Policy Officer (Equalities Welsh Language and Consultation), a representative from the Council's Performance Management Unit and a representative from the Council's Internal Audit Section. These meetings are chaired by the deputy Monitoring Officer. This Group will continue to meet in order to review and implement any changes to current practice as set out in the guidance to compliment the Model Concerns and Complaints Policy. This will include a review of the way in which we collect data, the methods for learning from concerns and complaints and a common means to identify and disseminate good practice and to put in place action plans where required.
- 5.11 In terms of complaints handling roles, the guidance sets out a requirement for Cabinet to receive reports on the number and type of complaints, their outcomes and any remedial action taken as a consequence. It is a matter for Cabinet to determine how frequently it should receive such reports, however it should be at least twice a year. It is proposed that Cabinet receive reports twice yearly (including an Annual Report).
- 5.12 In addition to the Ombudsman's guidance, the Local Government and Elections (Wales) Act 2021 sets out provisions for the Audit Committee (to be renamed the Governance and Audit Committee) to "review and assess the authority's ability to

handle complaints effectively and to make reports and recommendations in relation to the authority's ability to handle complaints effectively". It is therefore proposed that Audit committee also receive reports twice yearly under their terms of reference.

- 5.13 In addition to the above reporting lines, Corporate Management Team will receive quarterly updates on complaints outcomes to establish any wider lessons and to improve processes and procedures. Data will also be shared on a quarterly basis with the CSA.

### **Statement of Principles**

- 5.14 In addition to the new Model policy the Ombudsman has published a Statement of Principles which are set out in Appendix 2. It is these principles which form the basis of the new Complaints Policy and is intended to provide customers with an overview of what an effective complaints handling process should be, namely

- 1) Complainant Focused
- 2) Simple
- 3) Fair & Objective
- 4) Timely & Effective
- 5) Accountable
- 6) Committed to Continuous Improvement

It is intended to promote these principles on the Council's Website alongside the Concerns and Complaints Policy.

### **Council's existing Policy relating to Unacceptable, Persistent and Unreasonable Complainants.**

- 5.15 Members will be aware that the Council has adopted a policy for dealing with Unacceptable, Persistent and Unreasonable Complainants. The policy is rarely utilised but provides officers with support and advice on managing situations when we find that someone's actions are unacceptable. It is therefore recommended that this policy is endorsed and is published alongside the Concerns and Complaints Policy and Statement of Principles.

### **5.16 Conclusion**

In light of the information contained above members are asked to consider the recommendations set out in paragraph 3.

## **6. ASSUMPTIONS**

- 6.1 The provisions of the Model Complaints and Concerns Policy follows the draft issued by the Public Services Ombudsman for Wales.

## **7. LINKS TO RELEVANT COUNCIL POLICIES**

- 7.1 Monitoring of the Council's corporate complaints and successful resolution of those complaints contribute to the following Well-Being goals within the Well-being of Future Generations Act (Wales) 2015 as it supports the provision of higher quality and more effective services to the public across all service areas. In addition, monitoring provides information on the level of satisfaction of the services provided

corporately by the Council. The result of the monitoring enables each department to focus on areas of concern, to improve services and to monitor performance, ensure that any trends or issues raised are identified and dealt with to be avoided in the future and to ensure that corporate complaints are dealt with consistently and fairly across all service areas.

- A prosperous Wales
- A resilient Wales
- A healthier Wales
- A more equal Wales
- A Wales of cohesive communities and thriving Welsh language
- A globally responsible Wales

## **8. WELL-BEING OF FUTURE GENERATIONS**

- 8.1 This report contributes to the Well-being Goals as set out in Links to policies above. It is consistent with the five ways of working as defined within the sustainable development principle in the Act in that the monitoring of the Council's corporate complaints handling across all service areas enables departments to focus on areas of concern, to improve services and to monitor performance to ensure that any issues raised are identified and dealt with to be avoided in future.

## **9. EQUALITIES IMPLICATIONS**

- 9.1 Monitoring of complaints via the Corporate Complaints policy addresses the Council's statutory duties under the Equality Act 2010 (Statutory Duties) (Wales) Regulations 2011 and the Welsh Language Measure (Wales) 2011 in two ways. It addresses specific complaints to the Council around alleged discrimination by service areas and addresses the monitoring of complaints from people who fall under the categories protected by these statutory duties.

## **10. FINANCIAL IMPLICATIONS**

- 10.1 There are no direct financial implications arising from this report.

## **11. PERSONNEL IMPLICATIONS**

- 11.1 There are no direct personnel implications arising from this report.

## **12. CONSULTATIONS**

- 12.1 The report to Audit Committee has been circulated to the consultees listed below and any responses have been incorporated within the report. In addition, a copy of this report has been provided to the Cabinet Member for Corporate Services.

## **13. STATUTORY POWER**

- 13.1 Public Services Ombudsman for Wales Act 2019.

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Leigh Brook, PA to the Director of Social Services and Housing  
Lianne Fry, PA to Corporate Management Team  
Sian Wilkes, PA to the Interim Corporate Director of Communities  
Councillor Colin Gordon Cabinet Member for Corporate Services

Appendices:

Appendix 1 Revised Concerns and Complaints Policy  
Appendix 2 Statement of Principles relating to the Complaints Handling process  
Appendix 3 The Policy for dealing with Unacceptable Persistent or Unreasonable actions by complainants  
Appendix 4 Guidance for Public Service Providers on Implementing the Concerns and Complaints Policy