

Carmarthenshire County Council

Unacceptable Actions by Complainants Policy

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1. Introduction

- 1.1** In a minority of cases people pursue their complaints in a way that is unreasonable. They may behave unacceptably, or be unreasonably persistent in their contacts and representations. This can impede the investigation of their complaint (or complaints by others) and can cause significant resource implications for departments. These actions can occur either while their complaint is being investigated, or once an investigation has been concluded. In such circumstances Carmarthenshire County Council (the Council) must reserve the right to bring the complaint to a close once the procedure has been exhausted. Equally, we reserve the right not to continue to deal with repetitive complaints from the same person on the same matter.

2. Why have a policy?

- 2.1** The Council deals with complaints in an open, fair and proportionate way. We liaise with complainants with courtesy and respect, to ensure good customer care. We expect the same behaviour from the complainant towards our staff and Council Members dealing with the complaint. A policy-led approach in some cases helps staff and Elected Members to understand clearly what is expected of them, what options for action are available, and who can authorise these actions. Having a policy enables staff to deal with complainants in ways which are demonstrably consistent and fair. A policy that can be shared with complainant or a group of complainants if they start to behave unreasonably can assist in managing their expectations and their behaviour, as far as possible, while the substance of their complaint is addressed.

3. Defining Unacceptable behaviour by Complainants

- 3.1** The Council does not view behaviour as unacceptable merely because a customer is forceful or determined. However, the actions of complainants or groups of complainants who are angry, demanding or persistent, may result in unreasonable demands or unacceptable behaviour towards staff or Elected Members. It is these actions that are considered unacceptable and ones that this policy aims to manage. These have been grouped under four broad headings but are not limited to:

3.1.1 Aggressive or Abusive Behaviour

- Violence is not restricted to acts of aggression that may result in physical harm. It also includes behaviour or language (whether oral or written) that may cause staff to feel afraid, threatened or abused.
- Examples include (but are not limited to) threats; physical violence; personal verbal abuse; derogatory remarks and rudeness; directly

or indirectly made. It is also considered that inflammatory statements and unsubstantiated allegations can be abusive behaviour.

- We expect our staff and Council Members to be treated courteously and with respect. Violence or abuse towards staff is unacceptable. The anger felt by many complainants involves the subject matter of their complaint. However, it is not acceptable when anger escalates into aggression directed towards staff or Elected Members.

3.1.2 Unreasonable Demands

- Complainants may make what are considered to be unreasonable demands on the Council 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 seriousness of the issues raised by the complainant.
- Examples include (but are not limited to) demanding responses within an unreasonable time-scale; insisting on seeing or speaking to a particular officer; continual phone calls or letters; repeatedly changing the substance of the complaint or raising unrelated concerns; making groundless complaints about staff dealing with complaints and wanting them replaced; seeking an unrealistic outcome and persisting in doing so despite being clearly advised of the justification for the decision.
- These demands are considered unacceptable and unreasonable if they start to impact substantially on the work of the officers or Council Members, such as taking up an excessive amount of time to the disadvantage of other complainants or functions.

3.1.3 Unreasonable Persistence

- It is recognised that some complainants will not or cannot accept that the Authority 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 Authority persistently about the same issue.
- Examples include (but are not limited to) 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 information; hindering objective consideration of an enquiry by the nature or frequency of contact with the Council; continuing to attempt to pursue any matter, having exhausted all stages of the corporate or other statutory complaints procedure. The way in which these complainants approach the Authority may be entirely reasonable, but it is their persistent behaviour in continuing to do so that is not.

- The actions of persistent complainants are considered to be unacceptable when they take up what the Authority regards as being a disproportionate amount of time and resources.

3.1.4 Malicious Complaints

- Complaints made, which are proven to be malicious against the Council or a council officer or an Elected Member.

3.2 We will also consider any combination of these elements or any other behaviour which the Council considers amounts to inappropriate conduct, to a single member of staff or to a group of different staff.

4. Managing Unacceptable Actions by Complainants

4.1 Staff or Elected Members who directly experience aggressive or abusive behaviour from a complainant have the authority to deal immediately with that behaviour in a manner they consider appropriate to the situation and in line with this policy.

4.2 If an officer or Elected Member is concerned that a person is acting unreasonably, during either the investigation of their complaint, or following conclusion of their complaint, they need to bring this to the attention of the manager of the Complaints Team and provide relevant examples of the unacceptable behaviour.

4.3 The manager of the Complaints Team will liaise with the relevant Service Manager or Head of Service and contact will be made with the complainant. An explanation will be provided to the complainant regarding the aspects of conduct that are deemed unacceptable and the possible consequences of implementing the policy. They will be asked to change their behaviour.

4.4 If the behaviour continues, an internal meeting will be held between the manager of the Complaints Team, the relevant Service Manager/Head of Service and a legal representative (the Management Group). A decision will be made whether to apply this policy. If the policy is to be applied, this management group will then decide how the complainants actions will be managed, which will depend upon the circumstances of each case. The group will also decide on who needs to be notified of the restrictions identified.

4.5 It is advisable for a decision form (**Appendix 1**) to be completed to record the decisions made. The Management Group will appoint an appropriate officer to manage the case. In most cases this will be the manager of the Complaints Team. The Management Group will also agree a review date.

4.6 The appropriate officer will write to the complainant to tell them why it is believed their behaviour is unacceptable, the action that is being taken, and the proposed duration. The letter will also notify them of the appeals procedure.

5. Options for Action

5.1 The Management Group will decide how the complainant's actions will be managed, which will depend upon the circumstances of each case. Examples are provided in **paragraphs 5.2 to 5.6** below.

5.2 The Council will not deal with correspondence (by letter, fax, email or other electronic means) that is abusive to staff or Elected Members, or which contains allegations that lack substantive evidence. When this happens, details or examples will be given to the complainant and they will be told that their language is considered offensive, unnecessary and unhelpful. They will be asked to stop using such language and the Council will state that there will be no response to their correspondence if they do not stop. The Council may require future contact to be through a representative.

5.3 Staff or Elected Members will end telephone calls if the caller is considered aggressive, abusive or offensive. The staff member or Elected Member taking the call have the right to make this decision, tell the caller that the behaviour is unacceptable and end the call if the behaviour does not stop. If an employee feels that an incident is sufficiently serious they can fill in an accident/incident report form (ADOR1). Further information regarding this is available on the intranet.

5.4 Where a complainant repeatedly phones, visits the office, sends irrelevant documents or raises the same issues, the Council may decide to:

- Only take telephone calls from the complainant at set times on set days or put an arrangement in place for only one member of staff to deal with calls or correspondence from the complainant in the future.
- Require the complainant to make an appointment to see a named member of staff before visiting the office or that the complainant contacts the office in writing only.
- Return the documents to the complainant or, in some extreme cases, advise the complainant that further irrelevant documents will be destroyed.
- Take other action that we consider appropriate. We will always tell the complainant what action is being taken and why.

5.5 Where a complainant continues to correspond on a wide range of issues, and this action is considered excessive, then the complainant is told that only a certain number of issues will be considered in a given period and asked to limit or focus their requests accordingly.

5.6 A complainant's actions may be considered unreasonably persistent if all internal review mechanisms have been exhausted and the complainant continues to dispute the Council's decision relating to their complaint. The complainant can be told that no future telephone 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 is read and filed, but only acknowledged or responded to if the complainant provides significant new information relating to the complaint.

6. Appeals

6.1 A complainant can appeal against a decision to restrict contact within 28 days of being notified that they are subject to the provisions of the policy. A senior member of staff and a legal representative not involved in the original decision will consider the appeal. A complainant may also be asked whether they are willing to modify their behaviour to address the concerns of the Council. The complainant will be advised in writing that either the restricted contact arrangements still apply or a different course of action has been agreed.

7. Recording and Reviewing a Decision to Restrict Contact

7.1 A record of the decision and proposed action agreed by the Management Group will be kept by the Complaints Team and communicated to the relevant Director.

7.2 The decision to restrict complainant contact may be reconsidered if the complainant demonstrates a more acceptable approach.

7.3 There will be a review the status of all complainants with restricted contact arrangements on a 6 monthly basis or sooner if required. This will be co-coordinated by the appropriate officer (please refer to **paragraph 4.5**).

7.4 If the review determines that the restricted contact arrangements should continue, the appropriate officer will write to the complainant and advise accordingly.

8. Related Matters

8.1 New issues raised by complainants who have been designated as displaying unreasonable behaviour will be treated on their merits. This will avoid a failure to respond to a request for service made in an

appropriate fashion, or a request for information where the Council must comply with any statutory requirements.

9. Electronic recording of verbal communication

- 9.1** The electronic recording of meetings or telephone conversations by customers may be considered intimidating to staff or Elected Members. If a customer intends electronically recording a conversation by any means (for example on a mobile phone or dictaphone), that intention must be made clear to the other party beforehand.
- 9.2** There is no obligation for a member of staff or Elected Member to agree to the electronic recording of conversations/meetings. Where a member of staff or Elected Member state that they are not happy to proceed with an electronically recorded conversation/meeting, the customer will be expected to agree not to electronically record the conversation/meeting.
- 9.3** If the member of staff or Elected Member is happy to continue with an electronically recorded conversation/meeting, the recording must only be retained for personal use by the customer to help with their recollection of the discussion. Electronic recordings must not be shared with any third party for any reason.
- 9.4** Any covert recording of telephone calls/meetings by customers, or those recorded which are not in line with 9.2 or 9.3 above, will be considered as unreasonable behaviour and the customer would therefore be subject to appropriate actions as outlined in this policy.

10. Other Council policies and procedures

- 10.1** This policy should be read in conjunction with the following:
- Customer Complaints and Compliments Procedure
 - Dealing with an Incident Involving Harassment – Guidance Note for Staff and Management
 - Personal Safety Toolkit for Managers

11. Ensuring equality of treatment

- 11.1** This policy must be applied consistently to all irrespective of race, colour, nationality, ethnic or national origins, language, disability, religion or belief, age, sex, gender reassignment, sexual orientation, parental, marital or civil partnership status.

For advice and further information, or if you require this document in an alternative format please contact the Complaints Team on 01267 224488 or email complaints@carmarthenshire.gov.uk

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Policy prepared by: John Tillman, based on the Public Services Ombudsman policy (22nd June, 2015)

Appendix 1

Management Group Decision Form



Name of complainant:

Officers in Management Group:

Date of submission:

Yes No

1. A warning needs to be given to the customer warning them about their behaviour and the potential for consideration onto the policy. Has this been done?

2. If yes, are you satisfied that no further action can be taken to try and resolve the matter?

3. If yes, do you agree that the evidence provided warrants the customer being placed onto this policy?

4. If yes, please list the action you feel is appropriate in this case.

5. Which officer has been appointed to manage this case under the policy?

Name:

Designation:

6. Who will be informed of the decision and why? (e.g. Contact Centre / relevant Service Manager)

7. Review date (not more than six months ahead):

The Management Group is satisfied that this action identified is appropriate and proportionate to the nature and frequency of the complainant's contacts or behaviour.

Signed: (Representative of the management group)

Date:

Name:

Designation: