

Policy on dealing with Unacceptable Actions by Complainants



## **1. Introduction**

- 1.1. Dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint.
- 1.2. We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner.
- 1.3. We will not normally limit the contact which complainants have with council staff or offices.
- 1.4. We do not expect staff to tolerate unacceptable behaviour by complainants or any customer. Unacceptable behaviour includes behaviour which is abusive, offensive or threatening and may include:
  - Using abusive or foul language on the telephone
  - Using abusive or foul language face to face
  - Sending multiple emails
  - Leaving multiple voicemails
- 1.5. We will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy.
- 1.6. Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.
- 1.7. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent.

## **2. Aim of this policy**

- 2.1. The aim of this policy is to contribute to our overall aim of dealing with all complainants in ways which are demonstrably consistent, fair and reasonable.
- 2.2. It sets out how we will decide which complainants will be treated as abusive, vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff, staff in Newport's partner organisations and councillors, as well as customers.

## **3. Definitions**

- 3.1. We define unreasonably persistent and vexatious complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder our consideration of their or other people's complaints. The description 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant.
- 3.2. Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.

- 3.3. Features of an unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, nor does one single feature on its own necessarily imply that the person will be considered as being in this category):
- 3.4. An unreasonably persistent and/or vexatious complainant may:
- have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)
  - refuse to specify the grounds of a complaint despite offers of assistance
  - refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved
  - refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (e.g. matters where there is a statutory right of appeal in place, decisions made under democratic process or decisions made by other bodies such as Welsh Government)
  - refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation)
  - insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint)
  - make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
  - make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints
  - make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails)
  - harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive and racist language
  - raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
  - introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on
  - change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
  - deny statements he or she made at an earlier stage in the complaint process
  - electronically record meetings and conversations without the prior knowledge and consent of the other person involved
  - adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the council, but at the same time with a Member of Parliament, other councils, elected councillors of this and other councils, Assembly Members, the council's independent auditor, the police, solicitors, and the Public Services Ombudsman for Wales.

- refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- persistently approach the council through different routes about the same issue
- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons
- refuse to accept documented evidence as factual
- complain about or challenge an issue based on a historic and irreversible decision or incident
- combine some or all of these features

#### **4. Imposing restrictions**

- 4.1. We will ensure that the complaint is being, or has been, investigated properly according to the corporate complaints policy.
- 4.2. In the first instance the Service manager will consult with the Head of Customer Services and Digital Innovation prior to issuing a warning to the complainant. The service manager will contact the complainant either by phone, in writing or by email to explain why this behaviour is causing concern, and ask them to change this behaviour. The service manager will explain the actions that the council may take if the behaviour does not change.
- 4.3. If the disruptive behaviour continues, the head of customer services will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact us in future will be restricted. The Head of Customer Services and Digital Innovation will make this decision and inform the complainant in writing of what procedures have been put in place and for what period.
- 4.4. Any restriction that is imposed on the complainant's contact with us will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.
- 4.5. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include :
  - Banning the complainant from making contact by telephone except through a third party e.g. solicitor/councillor
  - Banning the complainant from sending emails to individual and/or all council officers and insisting they only correspond by letter
  - Banning the complainant from accessing individual/any council building except by appointment
  - Requiring contact to take place with one named member of staff only
  - Restricting telephone calls to specified days / times / duration
  - Requiring any personal contact to take place in the presence of an appropriate witness

- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence)
- 4.6. When the decision has been taken to apply this policy to a complainant, the head of customer services will contact the complainant in writing (and/or as appropriate) to explain:
- why we have taken the decision,
  - what action we are taking,
  - the duration of that action,
  - the review process of this policy, and
  - the right of the complainant to contact the Public Services Ombudsman for Wales about the fact that they have been treated as a vexatious/persistent complainant.
- 4.7. The Head of Customer Services and Digital Innovation will enclose a copy of this policy in the letter to the complainant.
- 4.8. Where a complainant continues to behave in a way which is unacceptable, the Head of Customer Services and Digital Innovation, in consultation with the Head of Law and Regulations, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.
- 4.9. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action.

## **5. New complaints from complainants who are treated as abusive, vexatious or persistent**

- 5.1. New complaints from people who have come under this policy will be treated on their merits. The Head of Customer Services and Digital Innovation will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.
- 5.2. The fact that a complainant is judged to be unreasonably persistent or vexatious, and any restrictions imposed on our contact with him or her, will be recorded and notified to those who need to know within the council.

## **6. Review**

- 6.1. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Head of Customer Services and Digital Innovation after three months and at the end of every subsequent three months within the period during which the policy is to apply.
- 6.2. The complainant will be informed of the result of this review if the decision to apply this policy them has been changed or extended.

## **7. Referring unreasonably persistent or vexatious complainants to the Public Services Ombudsman for Wales**

- 7.1. In some cases, relations between councils and unreasonably persistent or vexatious complainants break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure. Where this occurs the Ombudsman may be prepared to consider a complaint before the procedure has run its course.

## **8. Record keeping**

- 8.1. Adequate records will be retained by the appropriate service manager of the details of the case and the action that has been taken. The Head of Customer Services and Digital Innovation will retain a record of
- The name and address of each customers who is treated as abusive, vexatious or persistent
  - When the restriction came into force and ends
  - What the restrictions are
  - When the customer and departments were advised
- 8.2. A summary of all compliments and complaints is shared with the corporate management team every quarter, and Cabinet at least twice a year – this will include information about customers who have been treated as vexatious/persistent as per this policy.