

# CONCERNS AND COMPLAINTS POLICY GWYNEDD COUNCIL.

## STAGE 1 - Introduction.

- 1.1 The purpose of this policy is to enable the Council to deal effectively with concerns and complaints.
- 1.2 It is based on a model policy developed by the Welsh Assembly Government and which is suitable for all public services in Wales.
- 1.3 The policy contains a number of basic principles together with a comprehensive complaints procedure. It is relevant to all Council services except those which are dealt with under the Social Services complaints procedure.

## SECTION 2 - Definition and Principles.

### 2.1 What is a Complaint?

#### 2.1.1 A complaint is:

- an expression of dissatisfaction or concern
- either written or spoken or made by any other communication method
- made by one or more members of the public
- about the Council's action or lack of action
- or about the standard of service provided
- which requires a response

#### 2.1.2 A complaint is not:

- an initial request for a service, such as reporting a faulty street light
- an appeal against a 'properly made' decision by a public body
- a means to seek change to legislation or a 'properly made' policy decision
- a means for lobbying groups/organisations to seek to promote a cause.

## **2.2 Principles for dealing with complaints.**

2.2.1 When someone complains they inevitably have an issue about a service which has been received or not received. Complaints need to be handled in such a way that the complainant is the focus and not the process itself. It is within this context that the following principles should be applied.

### **(i) Accessible and Simple**

- Well publicised
- Easy to find, understand and use – both for public and staff
- Simple and clear instructions for the public about how to make a complaint.
- Has a flexibility to meet the different needs of different people, ensuring that those who face challenges in access are not excluded.
- Provides information on advocacy and support services.
- The stages in the complaint handling process are kept to a minimum.

### **(ii) Fair and Impartial**

- Concerns are dealt with in an open-minded and impartial way.
- Complainants are assured that making a complaint will not adversely affect their future dealings with contacts with the Council.
- Ensures that complainants get a full response and that decisions are proportionate, appropriate and are fair.
- The staff complained about are treated as fairly as complainants.

### **(iii) Timely, Effective and Consistent**

- Within the parameters of what is appropriate and possible, frontline staff themselves should seek to resolve complaints.
- "Investigate Once, Investigate Well" – when a complaint requires formal investigation, this should be done thoroughly to establish the facts of the case.
- Dealt with as quickly as possible. It should normally take no longer than 20 working days from receipt at the Formal Stage to resolution. If a complaint is more complex, complainants should be told why it may take longer to investigate and how long it is expected to take. Complainants and staff involved should be kept informed of progress throughout.

- Consistent so that people in similar circumstances are treated in similar ways.
- Concerns involving more than one public service provider are dealt with in such a way that the complainant's experience is of one system.

**(iv) Accountable.**

- Provides honest, evidence-based explanations and gives reasons for decisions.
- Information is provided in a clear and open way.
- When concerns are found to be justified, as appropriate, the Council will
  - acknowledge mistakes
  - apologise in a meaningful way
  - put matters right
  - provide prompt, appropriate and proportionate redress.
- Follow up to ensure any decisions are properly and promptly implemented.
- Where appropriate, the complainant is told about the lessons learnt and changes made to the service, guidance or policy.
- Ensures that complainants are informed of their right to complain to the Public Services Ombudsman for Wales (or of other appropriate routes open to them, for example, Welsh Language Commissioner in respect of complaints about compliance with Welsh Language Schemes, Equality and Human Rights Commission).

**(v) Delivers Continuous Improvement**

- Lessons learnt from complaints are gathered and feedback is used to improve service design and delivery.
- Systems are in place to record, analyse and report on the learning from concerns.
- The leadership of the Council:
  - takes ownership of the complaints process
  - regularly reviews and scrutinises its effectiveness
  - receives regular complaints monitoring reports, and
  - demonstrates what the organisation has done to improve service delivery as a result of complaints.
- Regulators have an important role in ensuring that lessons learnt from concerns are implemented satisfactorily and sustained.

## **SECTION 3 – Complaint Handling Arrangements.**

3.1 The aim is to provide a common approach for handling complaints by replacing 'process heavy' systems with one that is simple, flexible and places emphasis on getting the most appropriate outcome for individuals and services. It enables the Council to take a much more proactive approach to dealing with concerns by focusing on people's needs and not the complaints process itself.

### **3.2 A Commitment Statement**

3.2.1 "People will find it easy to complain and get things put right when the service they receive is not good enough."

### **3.3 The people who may put forward a concern.**

3.3.1 Any member of the public, including a child who has received, or was entitled to receive, a service from the Council may make a complaint. The same applies if they have suffered due to the inappropriate action or lack of action by the Council.

3.3.2 Where a concern is notified by a young person or child, the responsible body must provide them with such assistance that they may reasonably require in order to pursue the concern. This should include making the young person or child aware of the help that could be provided by the Children's Commissioner for Wales.

3.3.3 A concern can also be put forward by someone on behalf of another person, as follows:

(a) someone who has died

(b) a child

(c) those who lack the capacity (as defined by the Mental Capacity Act 2005(1))

(d) they have been asked to do so by the person affected

In the case of (b), (c) and (d) the Council must satisfy itself as far as the circumstances of the person affected allow for it, that the representative is acting with the authority of that person and if possible obtain their signature to confirm this.

3.3.4 This procedure is not however a means for a member of staff to raise employment issues. There are other internal mechanisms for these type of concerns, for example, whistleblowing, bullying or grievance procedures.

### **3.4 Roles.**

- 3.4.1 The Cabinet should ensure that the policy is adopted and in place. It is not appropriate for the Cabinet to be involved in the investigation of individual complaints. However, it should receive reports on the number and type of complaints received, their outcomes and any remedial action taken as a consequence. It is for the Cabinet to determine how frequently it should receive such reports.
- 3.4.2 The Corporate Management Team and the relevant Cabinet member will receive regular reports on the type of complaints that are to hand and any lessons to be learnt therefrom.
- 3.4.3 **Responsible Officer** – The Monitoring Officer has responsibility for ensuring the policy is adopted and the guidance is followed.
- 3.4.4 **Complaints Co-ordinating Team** - The complaints co-ordinating team includes a Complaints Officer located in Galw Gwynedd (who has responsibility for co-ordinating responses to all complaints not resolved at the informal stage and assisting complainants), and a Senior Solicitor in the Legal Unit (who is responsible for deciding on investigations in the more complex cases).

### **3.5 Resources.**

- 3.5.1 The Council will ensure that the necessary resources are made available to enable delivery of the policy, this includes:
- staffing (including administrative support, if necessary).
  - training
  - complaint handling administration systems

### **3.6 Accessibility and publicising the complaints procedure.**

- 3.6.1 The 'Complaints Commitment Statement' and complaints process will be widely publicised by:

- promoting the existence of the procedure, together with appropriate contact details, on a regular basis in any newsletters that the Council publishes for its service users
- producing a bilingual complaints information leaflet (see 3.7 below) to be available at all public reception areas and 'common' areas where service users may frequent, and made widely available to the staff.
- publishing the complaints procedure at a prominent and easily accessed area of the Council's website.

### 3.6.2 In addressing issues of accessibility:

- the complaints procedure information will be available on request in alternative formats such as on CD, in large print, Braille, etc.
- advice be provided to complainants who require/request such support as to which organisation(s) is likely to be the most suitable to help them

## **3.7 The complaints information leaflet/complaint form**

3.7.1 The Council has published a complaints information leaflet in both Welsh and English.

3.7.2 In raising a concern, ideally people should complete a complaint form either printed version or webform.

3.7.3 However, people may prefer to present their complaint by telephone, e-mail or in person (or other method). In doing so, staff dealing with the complaint should ensure that they have gathered the same information as that being sought on the complaint form and ensure it is recorded appropriately.

## **3.8 The Complaints Procedure.**

### **Stage 1 – Information Resolution.**

3.8.1 This stage offers the opportunity for informal engagement at the point of service delivery to seek to resolve complaints either at the time the concerns arises or very shortly thereafter. This stage is part and parcel of front line service delivery and not viewed as separate from it. This first step will formally be an explanation or other appropriate remedial action by frontline staff.

- Staff will be empowered and trained to deal with complaints as they arise with the aim of resolving issues on the spot.

- Staff will be trained to recognise the seriousness of a complaint and understand when it should be referred to more senior member of staff.
- Staff may receive complaints that do not involve their own service, but that of another department. It may be difficult for them to know to whom the complainant should be referred and therefore, they should direct the complainant to the Complaints Officer, who will then be able to advise the complainant appropriately.
- In a similar vein, staff may receive a complaint that not only involves their own service but that of another section/department. It is recommended that in these instances – since it is unlikely that the staff member will have the necessary authority to resolve a complaint on behalf of another Council service – the complainant should be referred directly to the Complaints Officer.
- Staff must advise complainants how to progress their complaint to the formal investigation stage, if they are not satisfied with the outcome of their complaint at the end of the informal stage.
- Complainants may wish their complaint to be 'fast tracked' straight through to internal investigation (Stage 2). This may particularly be so if there have been disagreements with staff directly responsible delivering the service. It is the complainant's prerogative to seek to take their complaint directly to Stage 2 of the procedure and frontline staff should advise how they may do so.
- Frontline staff will be trained and encouraged to provide appropriate information on advice and advocacy support at Stage 1 of the complaints and if the relevant information regarding assistance is not available to them to refer the complainant to the Complaints Officer.
- The Complaints Officer will be a source of support for frontline staff in respect of local resolution.

3.8.2 The informal resolution stage should be done as quickly as possible and certainly no longer than 10 working days. If it is not possible to resolve the concern within the relevant timescale, then the matter should be escalated to the formal investigation stage.

3.8.3 Examples of the type of concern that can be resolved at the local resolution stage are:-

- Someone complains that their bin hasn't been emptied by the refuse collection service when it should have been;
- Someone complains that their query was not answered within the required time.

3.8.4 However, examples of the type of complaint that should not be resolved at the information stage are:

- the complaint relates to a failure to safeguard a child/children by social services
- if the complaint includes legal proceedings
- the concern involves issues where it appears a service failure has occurred due to an obvious systemic problem.

## **Stage 2 - Formal Internal Investigation.**

3.8.5 "*Investigate once, investigate well*" is the principle for this stage of the process. Emphasis is 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. However, the Stage 2 element of the complaints process is intended to be flexible to respond appropriately to the complaint.

3.8.6 The following sets out how complaint should be dealt with at Stage 2

- Stage 2 complaints should be sent by the complainant to the Complaints Officer. Any staff member who receives a complaint form should forward it promptly.
- Having formally received a complaint at Stage 2, an acknowledgement should be sent by the Complaints Officer as soon as possible but within a maximum of five working days.
- If a complaint is 'out of time' – i.e. the issue being complained about is older than six months – (from the time that the complainant first became aware of the problem), consideration should be given as to whether there are good reasons as to why it should nevertheless be accepted.
- The Complaints Officer should offer to discuss the matter
  - helping the person who is complaining understand the process
  - confirming with them their preferred method of communication and what they want as an outcome to making the complaint
  - providing advice of relevant advocacy and support services if they need help to make that complaint



- Depending on the nature of the complaint it may be necessary to obtain the complainant's permission to access their personal file. If the complainant refuses to give permission, then it should be explained to them that this will have an effect on the ability to conduct a thorough investigation.
- If the complainant is complaining on behalf of someone else, consideration will need to be given as to whether consent is needed to investigate the complaint.
- Having satisfied themselves that they sufficiently understand the details of the complaint, the Complaints Officer should, (in consultation with the Senior Solicitor where appropriate)
  - grade the seriousness of the complaint to decide on the appropriate level of investigation
  - identify an officer with sufficient seniority, credibility and independence from the source of the complaint to undertake the investigation:
    - depending on the nature of the complaint, this may still be someone within the service section but it may require someone independent from the section or department
  - when deciding on an 'investigator', take account of whether the investigation will need to span across more than one service and the level of seniority required to investigate across all those areas.
- Having recorded the complaint on the complaints handling system on receipt the Complaints Officer should keep track of (and record) progress and take responsibility for monitoring the smooth running of the investigation, ensuring that timescales are met. The Stage 2 complaints process should normally be concluded within 20 working days. Where this is not possible complainants must be informed of the reasons and be agreeable to any extension. In any event, there should be regular contact with the complainant, updating them on progress on the case.
- A complainant may withdraw their concern at any time, however, the Council may continue to investigate if it feels that it is necessary to do so.

### **Complaints Investigations.**

3.8.7 A complaint investigation should be a fact finding exercise which is impartial, open and transparent and proportionate to the seriousness of the complaint. For serious complaints, a plan needs to be drawn up enabling the complaint to be investigated systematically.

- 3.8.8 However, even though the complaint has reached the Formal Internal Stage, there may still be potential for resolving the concern to the complainant's satisfaction through a '**quick fix**' and without having to undertake a full and lengthy investigation. Consideration should be given to the possibility of this.
- 3.8.9 Consideration should also be given as to whether face to face meetings and/or mediation could be a means to resolving the complaint.
- 3.8.10 Evidence gathering can include:
- correspondence (letters and e-mails)
  - notes of telephone conversations
  - organisational policies and procedures
  - good practice guidance
  - records (including those specifically in relating to complaint under consideration and training records of staff involved in the complaint).
  - legislation
  - interviews (including detailed note taking)
  - site plans and visits
  - photographic evidence
  - recording of various formats (e.g. phone, video, CCTV)
  - obtaining professional/expert advice
  - training records of relevant staff.
- 3.8.11 Recommendations arising from investigations should be Specific, Measurable, Achievable, Realistic and Timed (SMART).
- 3.8.12 At the end of an investigation a written outcome such as letter or e-mail should be produced, and in more serious cases a report. Where a report is produced this should include where appropriate:
- the scope of the investigation
  - a summary of the investigation:
    - details of key issues, setting out a brief chronology of events leading to the complaint
    - those who were interviewed (including setting out to what degree the complainant, and if appropriate, any affected relatives advocates, etc. were involved in the investigation)
  - conclusion
    - if the complaint is found to be justified/upheld
      - how it happened – i.e. what went wrong
      - why it happened – i.e. the root cause of the problem (e.g. human error, a systemic failure)
      - what impact did it have on the complainant

- if a systemic failing has been identified, an explanation of actions taken to put things right, with a view to ensuring the same problem does not occur again
  - if appropriate, an apology
  - if appropriate, an offer of redress
  - if the complaint has not been upheld, there should be an explanation of why this conclusion has been reached, demonstrating that it has been arrived at based on the evidence gathered.
- overall the report should demonstrate throughout that the complaint has been taken seriously, that the investigation undertaken has been fair and, in accord with the seriousness of the complaint, proportionately thorough.
- even in cases where an investigation upholds the complaint and offers remedy/redress, it may be that the complainant remains dissatisfied for some reason. Therefore, in all cases, the report should inform the complainant that if they remain dissatisfied then they have the right to seek an independent external consideration of their complaint. Information about making a complaint to the Public Services Ombudsman for Wales and other appropriate complaint handlers including the Welsh Language Commissioner should be provided.

## **The final steps.**

- 3.8.14 In cases where a complaint has been upheld and there is a clear systemic issue, the appropriate Manager should ensure that an action plan is devised setting out how the recommendations will be implemented and identify who will be responsible for ensuring their implementation. When it affects them, frontline staff should be involved in this process. The plan should also include arrangements for confirming to the complainant that changes have been implemented and make provision for the monitoring and evaluation of new arrangements introduced to assess their impact.
- 3.8.15 On closing a complaint case, the Complaints Officer should ensure that working documents used during the course of the investigation are retained in an orderly fashion and stored securely. If the complaint becomes the subject of further external investigation such as by the Public Services Ombudsman for Wales, these working documents may be needed as the Council's evidence. Complaint case records should be retained for at least one year following closure at the end of Stage 2.

## **An Independent Person.**

- 3.8.16 It may be that for some investigations, it is considered appropriate to include the involvement of an independent person in the Stage 2 investigation. It will be the responsibility of the complaints co-ordinating team to ensure that the organisation has a pool of suitable people to call upon where necessary.

## **Complaints Involving other Legal or Disciplinary Proceedings.**

- 3.8.17 Occasionally, complaints received will involve legal or disciplinary proceedings. It may from time to time be necessary to put the investigation of a complaint 'on hold' until the conclusion of those other proceedings. However, it should not automatically be assumed that this is necessary in every case. An assessment should be made (with legal advice sought, if appropriate) to identify whether it is possible to address the subject of the complaint, without impacting unfairly on the other proceedings underway. It is important that if a complainant is in a continued state of disadvantage as a result of likely poor service delivery that every step is taken to conclude this part of their complaint. This will mean that, if the complaint is upheld, it has been demonstrated that the organisation is doing everything it can to return them as soon as possible to the position they would have been in if that failure had not occurred in the first place.

## **Complaints involving more than one service provider.**

- 3.8.18 There are occasions when a complaint received will involve more than one organisation. In this case the role of the Complaints Officer will be slightly different. Having established the elements of the complaint and which organisations are involved they should contact their counterpart(s) in the other organisation(s) involved. The Complaints Officer should then decide which of them should lead on co-ordinating the response to the complainant. It would seem sensible that this should be the organisation with the greatest involvement in the complaint. However, it may be appropriate for the organisation with the largest complaints handling resource to undertake this role.

The role of the complaints officer allocated to the complaint in question is to co-ordinate the investigations in each of the service areas involved. The ultimate aim, therefore, is to provide the complainant with a single comprehensive 'joint' response on behalf of all the organisations involved.

There will be complaints where each element is sufficiently distinct and separate so that all that will be required is to set out the details and outcome of each investigation strand and then add an overall conclusion to the response.

However, it is recognised that there will be some cases where the resolution and remedy of a complaint will involve agreement by all involved and that this could lead to tensions and disagreement. Where such disagreements lead to an impasse, it may mean having to refer the problem to senior management within each of these organisations (depending on the seriousness possibly Chief Executives) in order to try to resolve the situation.

Where the impasse still cannot be resolved, it may be prudent to refer the matter at this point to the relevant external independent complaint handler at Stage 3 (e.g. the Public Service Ombudsman for Wales). However, the complainant should be told of this intention, together with the reason for it, and their agreement should be sought before such a referral takes place.

## **SECTION 4 - Learning Lessons.**

### **4.1 Learning from complaints/continual improvement.**

4.1.1 Complaints information will be used to improve the Council's service delivery and increase its effectiveness.

4.1.2 To support this, the Council will

- Ensure that the Complaints Co-ordinating Team, periodically review all complaint outcomes and their recommendations to identify whether there are any patterns to complaints/wider lessons to be learnt that may not be apparent from individual complaints along. When considering the lessons that can be learnt from a complaint, an assessment should be made as to whether:
  - these are limited to the section or department in question
  - whether they have an organisation wide implication
  - or indeed, whether they are ones that should be shared across the sector of the public service or indeed across the whole of the public service in Wales.
- Ensure that complaints reports are considered on a regular basis by the Senior Management Team, including an analysis of the data gathered and information on recommendations that have been made for improving service delivery.
- Ensure that the information received by the Senior Management Team is used to target any problem areas and consider if there is potential to improve policies, procedures and accordingly services.
- Ensure that the relevant Cabinet Members receives reports giving an overview of complaints received, setting out what changes have been made as a result of complaints information, and following monitoring of their implementation what results have been received.

- Ensure that an annual report on complaints is produced, drawing out lessons learnt over this period and demonstrating how they have contributed to improve service delivery.

## 4.2 Recording & Monitoring Complaints.

4.2.1 Effective approaches to complaints management collect specific data and identify recurring or system wide problems. All feedback and complaints received should be recorded to ensure that a comprehensive evaluation of data can be made.

4.2.2 To support this:

- The Council has a system to collect organisation-wide complaints data
- The Council uses the system to help track complaints and compliance with timescales.
- Data recorded enables the numbers, types, outcomes and trends of complaints to be captured, to facilitate comparisons with previous periods and identify system wide or recurring complaints.
- The system also enable a points from lessons learned to be captured.
- The Council writes to the complainant detailing the findings of the investigation providing an apology for the shortfalls and describing what action will be taken to prevent recurrence.

[**Note:** Frontline staff should be encouraged to report all serious complaints or those with wider learning points that they have dealt with informally to the Complaints Officer so that these can be recorded on the central complaints handling database. This should be regardless of whether or not the complaint has been resolved on the spot. For those serious complaints not resolved, such action will mean that there will be a record of the incident should the complaint progress to Stage 2 of the complaints process].

## **SECTION 5 – Staff and Training.**

### **5.1 Staff**

- 5.1.1 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 an investigation. It should be made clear that any interview that may take place is to establish facts as part of the investigation of a complaint, and that it does not form part of a disciplinary procedure. (However, a separate disciplinary process could take place if this is appropriate).
- 5.1.2 When requiring staff to attend for interview, they should be told the purpose of the interview, what to expect and what preparation they need to do. They should be advised that they can bring someone (such as a colleague) for support – although the position of confidentiality and their role should be made clear). They should also be advised as to what will happen after the interview.
- 5.1.3 Being the subject of a complaint is in any event a stressful situation and depending on the circumstances of the complaint and the issues involved, it may be prudent to inform the interviewee of staff support/counselling available.
- 5.1.4 In the same way that it is important to keep complainants informed on progress in the investigation and its outcome, the same is true in respect of staff.
- 5.1.5 As well as informing the staff involved of the outcomes of complaints and any recommendations that arise, there should also be a means (staff newsletters, making the annual report available on the intranet) of disseminating to staff how the way they deal with complaints can contribute to better public service. The organisational culture should be that reporting a complaint and action taken is seen as a positive act in that it assists organisational learning. If many individuals (perhaps based in many different locations) deal with a similar type of problem without this information being shared with others, then what may be a deep-rooted systemic problem within the organisation may not emerge to the surface. If frontline staff inform the complainant of this (intended) action, it is likely to have a positive effect in terms of good customer relation.

### **5.2 Training.**

- 5.2.1 The Council will ensure that the complaints function adequately resourced by appropriately trained staff.
- 5.2.2 The Complaints Officer should undertake an assessment of the skills and competencies required by all those involved in the complaints process and ensure that there is an appropriate training strategy in place.

5.2.3 Those likely to be involved in conducting 'sensitive' investigations will in all probability need additional 'specialist' training.

5.2.4 General training will also be included in the induction programme of all in the organisation (this includes staff and Cabinet members).

### **5.3 Unacceptable Actions by Complainants.**

5.3.1 The Council recognises that some people can act out of character in times of trouble or distress. It should be borne in mind that there may have been upsetting or distressing circumstances leading up to a complaint.

5.3.2 The Council will not tolerate unacceptable conduct towards staff. Accordingly the Council has a "Vexatious Complaints Policy" and it will ensure that its staff receive appropriate training in that regard.