

# Report

## Cabinet

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### Part 1

Date: 5 May 2021

**Subject** **Policy Review; Compliments, Comments and Complaints and Unacceptable Actions by Complainants**

**Purpose** The purpose of this report is to ask Cabinet to review and endorse the updated policies concerning Compliments, Comments and Complaints (Appendix A), and Unacceptable Actions by Complainants (Appendix B). The Compliments, Comments and Complaints policy is based on the model document published by the Ombudsman under the Public Services Ombudsman (Wales) Act 2019, together with other legislative and statutory requirements specified under the amendments. These principles underpin the complaints handling process.

In light of the introduction of the updated 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.

**Author** Service Manager – Customer Experience

**Ward** All

**Summary** Changes to existing policies are required to ensure that the policies remain relevant and reflect the latest statutory and legislative requirements. This will ensure that feedback from residents is dealt with appropriately and equitably.

**Proposal** Cabinet are asked to review and endorse the proposed amendments to policies.

**Action by** Service Manager – Customer Experience

**Timetable** To be implemented from 10<sup>th</sup> May 2021

This report was prepared after consultation with:

- Policy and Partnerships
- Education
- Children's Services
- The Unacceptable Actions by Complainants forum

**Signed**

## **Background**

The existing Comments, Compliments and Complaints Policy was developed in 2015. At that time the policy was updated to reflect new regulations relating to the management of social care complaints were introduced by Welsh Government. The changes allowed the Council to move the responsibility for the administration of social care complaints to Customer Services to facilitate the degree of separation from services required by legislation.

The changes made in 2015 also reflected additional guidance released by the Public Services Ombudsman for Wales that placed an emphasis on resolving the complaint informally, but allows the complainant to move to a formal process if they wish.

This represented a step change in how comments, compliments and complaints were dealt with and as such they were adopted by full Cabinet with Cabinet Member approval.

The policy was reviewed in 2017 to reflect the legislative requirements of the revised Welsh Language Standards and the Equality Act 2011.

Further changes are required to ensure that the policy remains relevant and reflects the latest statutory and legislative requirements.

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, which NCC have complied with.

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.

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.

In addition to the Ombudsman's requirements, there have been other changes to legislation that concern complaints handling which have been reflected in the updated policy. These are described in more detail in this report.

There have also been minor changes to the Council's policy for dealing with Unacceptable Actions by Complainants.

## **Amendments**

The updated information will ensure that the Council's arrangements continue to comply with the following legislation;

- Public Services Ombudsman (Wales) Act 2019
- The Regulated Fostering Services (Services Providers and Responsible Individuals) (Wales) Regulations 2019
- RISCA (Regulation and Inspection of Social Care (Wales) Act 2016)
- Welsh Language Standards Regulations (No.7) 2018
- Challenging Bullying – Rights, respect, equality: Statutory guidance for local authorities (2019)

### **Public Services Ombudsman (Wales) Act 2019**

The updates reflect the new legislation which was passed in 2019, and revised Policy and Guidance shared by the Complaints Standards Authority for Wales (CSA) which was published in October 2020. The updates reflect the changes published by the CSA, which focus on;

- Reporting and Monitoring
- Roles and Responsibilities
- Arrangements with partners and service providers commissioned by the Council to provide services on behalf of NCC.
- Increased signposting to advocacy and support services

### **Public Services Ombudsman (Wales) Act 2019**

Additionally, Section 115 of the Local Government and Elections (Wales) Act 2021 came into force on 1st April – and this changed the statutory functions of the new Governance and Audit Committee to include the responsibility to,

- Review and assess the authority's ability to handle complaints effectively;
- Make reports and recommendations in relation to the authority's ability to handle complaints effectively

Reporting and Monitoring arrangements that meet the requirements of both Acts are outlined in the policy as follows;

<b>Meeting</b>	<b>Frequency</b>	<b>Format</b>
Senior Leadership Team (SLT)	Quarterly Half Yearly	Electronic Report / Verbal
Complaint Standards Authority for Wales (CSA)	Quarterly	Electronic
Cabinet	Half Yearly	Report / Verbal
Audit Committee	Half Yearly	Report / Verbal
Overview And Scrutiny Committee	Annually	Report / Verbal

These changes meet the reporting and monitoring requirements specified by the Ombudsman.

### **The Regulated Fostering Services (Services Providers and Responsible Individuals) (Wales) Regulations 2019**

The changes made to the policy reflect the new requirements of the Regulations that were introduced last year, and provides greater clarity on the arrangements in place for those wishing to give feedback regarding fostering services. The policy relates to Parts 2 to 16 of The Regulated Fostering Services (Services Providers and Responsible Individuals) (Wales) Regulations 2019, regulation 42.

### **RISCA (Regulation and Inspection of Social Care (Wales) Act 2016)**

Care Inspectorate Wales Inspection have specified that the Council's service providers must have a specific policy in place with regards to complaints and other feedback, and that this must be referred to as part of their Statement of Purpose. This change will satisfy Regulation 64 of the statutory guidance under RISCA (Regulation and Inspection of Social Care (Wales) Act 2016).

### **Welsh Language Standards Regulations (No.7) 2018**

Greater clarification on the routes that residents can use for complaints about the Council's delivery against Welsh Language Standards, and how their feedback will be recorded and responded to has been added to the policy.

## Challenging Bullying – Rights, respect, equality: Statutory guidance for local authorities (2019)

The revised policy includes information about complaints related to bullying, including where to go for help and how to find more information and support.

### Unacceptable Actions by Complainants

The policy has been updated to refer to the most up to date legislation published by the Ombudsman. The policy has also been updated to contain details of the forum that meets on a regular basis to ensure that issues concerning behaviour outlined in the policy are addressed in a confidential, fair and objective manner. The forum has been in operation for some time and the policy formalises the approach taken by the Council to support staff in managing unreasonable behaviour, and to minimise the impact that unreasonably persistent complainants can have on the Council's ability to provide services to other residents.

The restrictions that may be placed on residents who fail to change behaviour considered unacceptable by the forum has been amended to include reduced access to the Council's social media accounts. Lastly, the policy has been re-titled Unacceptable Actions by Customers, to reflect that not all unacceptable behaviour is related to complaints.

### Revisions

The revisions to the policy have been developed through collaboration with;

- Policy and Partnerships
- Education
- Children's Services
- the Unacceptable Actions by Complainants Forum

Members are asked to consider the Compliments, Comments and Complaints policy attached at Appendix A and the Unreasonable Actions by Customers. For completeness a copy of the Ombudsman's guidance is attached as Appendix C.

### Financial Summary

There are no direct financial impacts associated with these changes.

### Risks

Failure to take appropriate action to update policies carries reputational and financial risk.

Risk	Impact of Risk if it occurs* (H/M/L)	Probability of risk occurring (H/M/L)	What is the Council doing or what has it done to avoid the risk or reduce its effect	Who is responsible for dealing with the risk?
Failure to comply with current legislation	L	L	<ul style="list-style-type: none"><li>• Updating policies to reflect the most up to date legislative and statutory requirements.</li><li>• Communicating changes to staff.</li><li>• Publishing new policies on the internet and intranet.</li><li>• Providing ongoing training and guidance to staff.</li><li>• Regular reporting and monitoring in line with the policies.</li></ul>	Complaint Resolution Manager

\* Taking account of proposed mitigation measures

## **Links to Council Policies and Priorities**

Monitoring of 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

## **Options Available and Considered**

Option 1 – That Cabinet endorse the revised Compliments, Comments and Complaints Policy, and the new Unacceptable Actions by Customers policy to be introduced from 10<sup>th</sup> May 2021 in order to meet statutory and legislative requirements.

Option 2 – That the authority retains the existing Policies which do not comply with up to date statutory and legislative requirements.

## **Preferred Option and Why**

**Option 1** is the preferred option for the reasons stated within the report. In summary, this option satisfies the statutory and legal requirements and ensures that complaints from residents are dealt with equitably.

## **Comments of Chief Financial Officer**

There are no direct financial issues resulting from this report, any costs incurred as a result of the proposed amendments to policy will be met from existing budgets.

## **Comments of Monitoring Officer**

There are no specific legal issues arising from the Report. The revised Compliments, Comments and Complaints policy is consistent with the model complaints handling procedure required by the Public Services Ombudsman for Wales under section 38 of the Public Services Ombudsman (Wales) Act 2019 and the standards for complaints handling required by the Complaints Standards Authority. The proposed revisions to the previous policy also reflect the updated Guidance published by the Ombudsman in October 2020 and legislative changes, particularly in relation to the conduct of specific social care and Welsh language complaints. The accompanying Policy for dealing with unacceptable actions provides a fair and consistent approach for staff dealing with vexatious or unreasonable complainants, but it should be used primarily for moderating the behaviour and actions of complainants towards staff rather than filtering out unmeritorious complaints. The reference to Unacceptable Actions by Customers also reflects the fact that not all unacceptable behaviour is in relation to corporate complaints.

## **Comments of Head of People and Business Change**

The revised Comments, Compliments and Complaints policy reflects new legislative requirements and continues to ensure a consistent approach to dealing with complaints across council services. The updated policy also includes clarification on the routes that residents can use for complaints about the Council's delivery against Welsh Language Standards, and how their feedback will be recorded and responded to.

The report outlines how the policy is in line with the sustainable development principle in the Well-being of Future Generations Act.

There are no human resources implications arising from this report.

### **Comments of Cabinet Member**

The Cabinet Members for Community and Resources and for Social Services have been consulted on the report and support the proposal.

### **Local Issues**

Not applicable.

### **Equalities Impact Assessment and the Equalities Act 2010**

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. A Fairness and Equalities Impact Assessment has been carried out and is attached as Appendix

### **Children and Families (Wales) Measure**

The policy specifies the arrangements and support available for young people in Newport who wish to provide feedback about Council services, or about schools. Although no targeted consultation takes place specifically aimed at children and young people, the Compliments, Comments and Complaints policy is relevant to all of residents regardless of their age.

### **Wellbeing of Future Generations (Wales) Act 2015**

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 handling of feedback across all service areas enables departments to focus on areas of concern. This supports service areas to improve services and to monitor performance to ensure that any issues raised are identified and dealt, and are avoided in future.

- Prevention – addressing the comments and complaints from residents and others can assist the Council in preventing problems occurring or getting worse. The feedback provided is monitored for 'Lessons Learnt' and continuous improvement to services which helps to prevent similar issues happening again.
- Involvement – the ability of residents and others to submit compliments, comments and complaints provides another avenue by which they can be involved in decisions that affect them. This feedback is acted upon for the individual, but also helps to create a bigger picture of anonymised data that feeds into changes and decisions made about service provision.
- Integration – The Council's policy enables an integrated, consistent approach to handling comments and receiving feedback as required by a range of legislation. This creates one clear pathway that residents can access to provide feedback to the Council.
- Collaboration – Responding to feedback from residents requires collaboration across the Council. The specific arrangements for monitoring feedback provides a transparent framework for services to collectively consider what is important to residents and to agree on appropriate actions as a result of the feedback.

### **Crime and Disorder Act 1998**

Not Applicable.

### **Consultation**

Not applicable. Consultation was carried out by the Ombudsman and Welsh Government as part of the changes to legislation described, prior to them being approved.

The Council is not required to consult on the proposals of the new scheme as the amendments made are in consequence of amendments made to the Prescribed Requirements Regulations. The local discretions that are available to the Council will remain unchanged.

### **Background Papers**

Appendix A – Compliments, Comments and Complaints Policy

Appendix B – Unacceptable Actions by Customers Policy

Appendix C – Ombudsman’s Guidance

Appendix D – FEIA

**Dated: 27 April 2021**