

DERBYSHIRE COUNTY COUNCIL

CABINET

1 OCTOBER 2010

Report of the Chief Executive

REVISED CORPORATE COMPLAINTS PROCEDURE AND GUIDANCE (Leadership and Culture)

Purpose of the report

To request Cabinet approval for the revised Corporate Complaints Procedure and Guidance on Dealing with Comments, Compliments and Complaints.

Background

In May 2009, the Local Government Ombudsman (LGO) issued: '*Guidance on running a complaints system – Guidance on good practice*'. The document provides advisory guidance for councils about the design and operation of complaints systems and replaces their previous advice issued in 2002.

Since April 2009, the LGO has only considered complaints made about a local authority after a council's formal complaints procedures have been completed (subject to some exceptions). The LGO have reviewed and updated their Guidance to reflect these changes and changes in the law. The new Guidance also reflects the changing way in which people approach councils to seek and access services and how services are provided, particularly with regard to the use of technology.

In light of this Guidance, the Corporate Complaints Officers' Group have reviewed and revised the County Council's Corporate Complaints Procedure to ensure that it incorporates the latest LGO recommendations. In addition to revising the Corporate Complaints Procedure the Complaints Officers have also revised and updated the Council's guidance for staff '*Guidance on Dealing with Comments, Compliments and Complaints*'.

The revised Corporate Complaints Procedure

The most significant change to the Corporate Complaints Procedure is that there is no longer a Stage 3. In the existing Procedure, Stage 3 allows an appeal to a panel of three Elected Members if a complainant is dissatisfied with a Stage 2 decision. This stage has been removed as the new LGO Guidance expresses concern that Stage 3 can significantly add to the time taken to deal with complaints. In Derbyshire very few complaints had ever progressed to Stage 3 in the past. Other changes to the Procedure have primarily involved minor amendments to wording. A copy of the revised Procedure is included in Appendix 1.

Revised Guidance on Dealing with Comments, Compliments and Complaints

The main purpose of this document, attached at Appendix 2 for information, is to provide guidance to employees on how to deal with complaints, comments and compliments. These are all valuable forms of feedback which can help the Council to improve its services. It is therefore vital that staff are aware of the procedures for dealing with them and for recording, monitoring and learning from them. The guidance will include the revised Corporate Complaints Procedure as in Appendix 1. The major change to this document is the inclusion of a new 'Procedure for dealing with Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour' which is included in Appendix 3. Other changes are again, primarily minor amendments to wording.

Other Considerations

In preparing this report the relevance of the following factors has been considered: personnel, prevention of crime and disorder, financial, equality, environmental, health, transport, legal and human rights and property considerations.

Key Decision

No.

Call-in

Is it required that call-in be waived for any decision on this report? – **No**.

Contact

Barbara Ackrill
Policy and Research (Chief Executives Office)

Next steps

Subject to Cabinet approval it is suggested that the revised Procedure be publicised to ensure that staff and service users are aware of revised processes and how they should be implemented.

Officer Recommendation

The revised Corporate Complaints Procedure be approved.

Nick Hodgson
Chief Executive

DERBYSHIRE COUNTY COUNCIL

CORPORATE COMPLAINTS PROCEDURE

AUGUST 2010



Version	Author	Date	Comments
2.0	Barbara Ackrill	August 2010	Review Due: August 2013

1. **What is a complaint?**

The Corporate Complaints Procedure defines a complaint as:

“an expression of dissatisfaction or disquiet by a service user or their representative which requires a response in writing.”

There are other complaints procedures which apply to particular areas of the Council’s work and they should be followed where appropriate. In particular, complaints about Adult Care or Children and Younger Adult matters will be dealt with under separate, statutory procedures. Details of these procedures are available on Derbyshire County Council’s website:

Adult Care Procedure:

http://www.derbyshire.gov.uk/contact_us/complaints/adult_care/default.asp

Children and Younger Adults Procedure:

http://www.derbyshire.gov.uk/contact_us/complaints/childrens_social_care/default.asp

The Council welcomes all forms of feedback including complaints, compliments and suggestions and will use information gathered from them to improve our services in the future.

2. **When should the Corporate Complaints Procedure be followed?**

The definition of a complaint is sufficiently broad to cover most complaints such as:

- Dissatisfaction with the implementation of policies
- Delays in responding to service requests
- Failure to achieve good standards of service
- Employees’ behaviour or attitude.

However, it will not always be appropriate to follow the formal Corporate Complaints Procedure. For example:

- Many minor or day-to-day concerns amount to service enquiries or representations rather than complaints and can be addressed informally by the service provider.
- If the complaint would more properly be dealt with via an alternative route (for example police involvement, legal action, an insurance claim or an established appeals process), this will be explained to the complainant at the outset
- Complaints about the conduct of Councillors should not be handled through the Complaints Procedure but should always be reported to the Council’s Monitoring Officer (John McElvaney, Director of Legal Services, Derbyshire County Council, County Hall, Matlock, Derbyshire DE4 3AG, telephone 01629 538303).

- Complaints about schools are normally dealt with by schools' own complaints procedures. For further details please refer to the County Council website:
http://www.derbyshire.gov.uk/education/schools_colleges/complaints/

3. *How will complaints be handled?*

Every effort will be made to resolve complaints without undue delay. We believe that 12 weeks is generally sufficient time to conclude an investigation but what is reasonable will depend upon the particular circumstances of the complaint.

Complainants will be dealt with fairly and courteously and in keeping with the Council's "Customer Service Charter". For details of this please refer to the County Council website:
http://www.derbyshire.gov.uk/council/policies_plans/customer_care_charter/

A complaint may be made in any way (by telephone, letter, fax, e-mail or in person) but complainants will be encouraged to set down their complaints in writing and assistance will be offered if necessary. We will aim to respond to the complainant through the medium requested but will also provide a written copy. There will always be a written explanation of the outcome to a complainant.

Complainants will be afforded confidentiality in bringing their complaint unless this is not possible, for example where to do so would place a child or adult at risk of harm.

All departments have nominated a senior officer to be responsible for dealing with complaints. Their responsibility includes ensuring that satisfactory arrangements exist within their department for the receipt and handling of complaints. Call Derbyshire (Tel: 08456 058 058 or 01629 736200) will be able to put complainants in touch with departmental complaints officers or appropriate managers.

The complaint investigation may lead to other investigations (e.g. disciplinary proceedings). However, care will be taken to try to ensure that issues for the complainant are resolved speedily and do not get unnecessarily delayed as a result of other proceedings.

If the complaint involves more than one department of the Council a Lead Officer may be identified and a composite response provided.

If the complaint involves agencies other than the Council, agreement will be reached as to who will deal with the complaint. It may be that one agency replies on behalf of others or each agency replies in relation to areas within their remit. Whichever route is chosen the complainant will be notified.

The Council will seek to ensure that bodies acting on behalf of the Council have a robust complaints procedure and that monitoring information is provided to the Council regularly.

Where a complaint is found to be justified the appropriate remedy will be offered. This will normally include an apology and an explanation. Compensation or other action may be considered in the light of the circumstances of the case. The Council will follow the guidance contained in the Ombudsman's "Remedies - Guidance on Good Practice 6" , this guidance can be found at:

<http://www.lgo.org.uk/GetAsset.aspx?id=fAAxADIANqB8AHwARqBhAGwAcwBIAHwAfAAwAHwA0>

4. The Two Stages of the Complaints Procedure

The Complaints Procedure has two stages:

- **Stage One – Local Resolution**
Complaints will be dealt with by the staff in the department concerned. Timescales for dealing with complaints will be in accordance with the Council's Customer Service Charter. For details of this please refer to the County Council website:
http://www.derbyshire.gov.uk/council/policies_plans/customer_care_charter/
(The Council aims to reply to letters, faxes and e-mails within 10 working days of receipt. If this standard cannot be met, for example if the reply requires detailed research, the complainant will be told when he or she can expect a reply).
- **Stage Two – Formal Investigation**
If a complaint is not able to be resolved at Stage One the complaint will be referred to the Departmental Complaints Officer or appropriate manager. Receipt of a Stage Two complaint will be acknowledged within 5 working days and the complainant will be told who will be dealing with their complaint and informed that a response should be made within 20 working days of receipt of the complaint. Where it is not possible to respond within this timescale, an explanation will be given to the complainant within the first 20 working days and a full response will always be made within 3 months except in exceptional circumstances. Complainants will receive a written response explaining the decision, the reasons for it and, where appropriate, a proposed resolution.

5. What happens if a complainant remains dissatisfied?

If a complainant remains dissatisfied he or she may be able to complain to the Local Government Ombudsman:

A complaint can be made over the phone to the LGO Advice Team on 0300 061 0614 or 0845 602 1983 or in writing to:

The Local Government Ombudsman
PO Box 4771
Coventry CV4 0EH

Fax: 024 7682 0001

For further details please visit the Local Government Ombudsman's website:
<http://www.lgo.org.uk/>

**GUIDANCE ON DEALING WITH COMMENTS, COMPLIMENTS
AND COMPLAINTS**

1. Introduction

The main purpose of this guidance is to help employees deal with complaints, comments and compliments. These are all valuable forms of feedback which can help the Council to improve its services and so it has established procedures for dealing with them and for recording, monitoring and learning from them. They may be received by officers, Elected Members, Call Derbyshire or via the Council's Putting People First leaflet.

1.2 Compliments

Definition: A member of the public wants to congratulate us on a job well done or service provided.

Compliments are, of course, always welcome and help the Council to know what it is doing well. They can assist in decision-making and raise staff morale.

It is for individual Council departments to consider how to make best use of information regarding compliments.

1.3 Complaints

Definition: An expression of dissatisfaction or disquiet by a service user or their representative which requires a response in writing.

Complaints provide another valuable form of feedback. All councils are expected by the Local Government Ombudsman to have special processes for dealing with them. Derbyshire County Council is committed to having a good system for dealing with complaints and has developed a corporate procedure.

1.4 Comments

Definition: Members of the public may wish to suggest how we can improve our services or just wish to express views on a service or individual officer.

Comments also provide the Council with valuable information which can assist with service planning and decision-making. It is for individual departments to ensure that, if necessary, appropriate action is taken on comments and to decide how to make best use of the information they provide. Departmental Complaints Officers can provide guidance on how to deal with comments.

2. Why we have a Corporate Complaints Procedure

Every department gets complaints. The main benefits of having a corporate system for dealing with complaints are:

- It is better for the public. Everyone should know how to complain and the way their complaint will be handled.
- It is better for employees. They can be confident about what to do when they get a complaint.
- It is fairer. Everyone is treated equally.
- It helps the Council to improve services. By analysing all the complaints which are considered through the Procedure, Elected Members and managers can see how to make services better and more responsive.

3. The Council's corporate procedure for dealing with complaints from the public

The Council's Corporate Complaints Procedure is attached to this Guidance (*this will be Appendix A*).

The procedure should be used for most complaints by members of the public. There are other procedures which apply to particular areas of the Council's work and these should be followed where appropriate. In particular, the Adult Care and Children and Younger Adult departments have statutory complaints procedures covering much of their work. The Departmental Complaints Managers can provide guidance on how to deal with complaints.

4. Who is responsible for dealing with complaints?

All members of staff have a responsibility for customer service and dealing with concerns members of the public raise and for passing on these concerns to their line manager. Should there be a formal complaint all members of staff are responsible for ensuring that this is acted on in line with the Complaints Procedure.

The Council is committed to providing an effective complaints system. Elected Members, senior officers and employees at all levels should understand the Corporate Complaints Procedure and show their determination to make it work.

The Office of the Chief Executive (Policy, Research and Scrutiny Division) has overall responsibility for managing the arrangements for dealing with complaints and the Chief Executive produces regular monitoring reports(see paragraph 18 below).

The Corporate Resources Department (Legal Services) deals with Local Government Ombudsman complaints on behalf of the Chief Executive.

Each department has designated a senior officer responsible for dealing with complaints. The Departmental Complaints Managers' responsibilities include ensuring

5.3 Alternative Routes

The Corporate Complaints Procedure provides that if a complaint would more properly be dealt with via an alternative route, this will be explained to the complainant at the outset. Possible alternative procedures include:

- Complaints about the conduct of Councillors should always be referred to the Monitoring Officer and should not be handled through the Procedure. The Council's Monitoring Officer is the Director of Legal Services, County Hall, Matlock, Derbyshire DE4 3AG (01629 538303)
- Legal action - if the complainant could go to court or tribunal to seek a remedy, and if it would be reasonable to expect the complainant to do that, the complaint would probably not be suitable for the Corporate Complaints Procedure
- Police involvement – allegations of criminal behaviour require special care. The Council must ensure that it does not hamper a police investigation. The safest course is to consult senior managers who, in turn, will seek legal advice and/or consult the police before taking action on the allegation.
- Claims for financial compensation – if complainants are seeking financial compensation it may well be that they are considering bringing a legal claim against the Council. Legal Services (Corporate Resources Department) will be able to advise on how such complaints should be handled.
- Cases of suspected fraud, misappropriation of money, materials or equipment, or any mismanagement of money or other assets, or any other irregularities, must be reported immediately to the Assistant Director of Finance (Audit) who will investigate all such cases.

It is important to remember that the Council should consider any aspect of a complaint which is not dealt with by alternative procedures.

The alternatives should be discussed with the complainant. As consideration of the complaint proceeds, the question of the appropriate mechanism should be reviewed as necessary.

5.4 Assistance for Complainants

It is important that no-one should be excluded from the Complaints Procedure because of any difficulties they may have in representing themselves. Some people may need help to make a complaint and this may not be immediately apparent (for example, inability to read and/or write). Assistance should be offered if at all possible, the involvement of an advocacy organisation or a translator may be appropriate in some cases.

5.5 Recording Complaints in Writing

The Corporate Complaints Procedure states that "Complainants will be encouraged to set down their complaints in writing and assistance will be offered if necessary". Assistance could, for example, be provided by writing down the complaint and confirming it with the complainant.

5.6 Responding to Complaints

We will aim to respond to the complainant through the medium requested by the complainant but will also provide a written copy. There will always be a written explanation of the outcome to a complainant.

5.7 Confidentiality

The identity of complainants should be made known only to those who need to consider or know about the complaint and should not be revealed to any other person or made public by the Council. Care should be taken to maintain confidentiality where particular circumstances demand (for example, information about third parties). However, it may not be possible to preserve confidentiality in some circumstances, for example where allegations involve the conduct of third parties, and complainants should be advised about this where appropriate.

It should, of course, be borne in mind that both internal and external correspondence and other documentation relating to complaints, including e-mails, may be disclosable under the Freedom of Information Act, the Data Protection Act, in legal proceedings or to the Local Government Ombudsman.

5.8 Other Investigations

The complaint investigation may in some cases lead to other investigations, such as disciplinary proceedings. The purpose of the Corporate Complaints Procedure is to find out whether the Council did anything wrong and, if it did, to try to put things right. The purpose of the disciplinary proceedings is to decide whether any individual employees broke the Council's disciplinary rules. It may well be that the Council can provide a remedy to the complainant without waiting until after the disciplinary proceedings have been completed and this should be the preferred approach. If, in exceptional circumstances, the complainant has to await completion of the disciplinary proceedings before being provided with a remedy then undue delay should be avoided.

NB. It should be made clear to complainants that the Council's Disciplinary Procedure is quite separate from the Corporate Complaints Procedure; its use is entirely a matter for the Council and the outcome of disciplinary proceedings are strictly confidential.

5.9 Policy Issues

The definition of a complaint in the Corporate Procedure is broad and it is stated that it covers 'dissatisfaction with the implementation of policies'. However, complaints about the policies themselves (corporate or departmental) should not be dealt with under the Procedure; they should, instead, be passed to the relevant Chief Officer or senior manager in order that they may respond and report to Elected Members as appropriate.

5.10 Racial Incidents

The definition of a racial incident is any incident regarded as such by the victim or anyone else.

Whilst this is only one aspect of equal opportunities, the Council is under a statutory duty to record racial incidents relating to the Council, its employees and its services and to record "further action" taken as a result (e.g. investigating the incident further). For this reason, the Council has decided to record all such racial incidents which are made by members of the public as complaints.

All racial incidents should be reported to the Departmental Complaints Officers who will, in turn, report the incident to the department's representative on the Corporate Equalities Leadership Group.

In all other respects, racial incidents should be resolved in the normal way, including use of the formal complaints process as appropriate.

5.11 Repeated Complaints

If a complaint is considered in accordance with the Corporate Procedure but the complainant asks for the same issue to be considered again, they should be informed that the Council is unable to go through the formal complaints process a second time. However, care should be taken to ensure that circumstances have not changed and that there are no fresh elements to the complaint which ought to be considered. Departmental Complaints Officers or line managers will be able to assist in the case of uncertainty.

5.12 Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour Procedure

The County Council has a separate procedure for dealing with unreasonably persistent complainants and unreasonable complainant behaviour (*this will be in Appendix B*). The Departmental Complaints Managers can provide further advice on when complainants should be classed as unreasonably persistent.

5.13 Problems in dealing with Complainants

The Council expects employees to respond with patience and sympathy to all complainants but recognises that the behaviour or attitude of complainants can sometimes create difficulties. Departmental Complaints Officers should be

consulted when such difficulties arise.

5.14 Complaints from Elected Members and MPs

Complaints against the County Council by members of the public are often referred through third parties, including Elected Members and MPs. Such complaints should be dealt with in the normal way. However, responses should be made in liaison with the Cabinet Member and they should receive copies of replies.

5.15 Complaints involving the Council's Partners or Contractors

Some complaints may be complex because they relate to the actions of the Council as well as an organisation with which the Council has a partnership arrangement. Wherever appropriate there should be a protocol on complaint handling, sharing of information and investigation of such complaints.

Where a complaint relates to firms providing goods or services commissioned by the authority, whilst the authority has overall responsibility for the quality of services delivered on its behalf, it is reasonable to expect the provider to have the opportunity of answering those complaints, at least in the first instance. It is however, important that the complainant's permission is sought before forwarding copies of complaints to providing companies and it is reasonable for the contractor to provide the Council with a copy of its response to the complaint. If the complainant remains dissatisfied then consideration should be given to progressing the complaint within the Council's Procedures. It is also good practice for commissioners and contracting staff to consider complaint handling responsibility and expectations as part of the contracting process.

5.16 Remedies

The Corporate Complaints Procedure is there to put things right if they have gone wrong. The general principle is that, as far as possible, complainants should be put in the position they would have been in if things had not gone wrong. The remedy should fit the harm or injustice to the complainant.

If a complaint is justified, the Council should, as a matter of routine, consider whether there is a need for a change in procedures and or training or whether there are some lessons to be learnt which may have wider applications.

The Council will follow the guidance contained in the Ombudsman's "Remedies - Guidance on Good Practice 6" , this guidance can be found at:

<http://www.lgo.org.uk/GetAsset.aspx?id=fAAxADIANgB8AHwARgBhAGwAcwBIAHwAfAAwAHwA0>

5.17 Complaints Investigation

The majority of complaints are likely to be capable of being dealt with speedily and simply. Where, however, a more substantial inquiry is required, the Local Government Ombudsman's Guidance on Good Investigative Practice may be helpful for investigating officers, (see the link to the LGO website above) .

5.18 Records

Departmental Complaints Managers will maintain a record of complaints and provide the following information to the Office of the Chief Executive (Policy, Research and Scrutiny Division) on a quarterly basis:

- a) The number of complaints received during the quarter
- b) Subject matter
- c) Individual outcome (upheld, not upheld, partially upheld and remedy)
- d) Steps taken to avoid the problem recurring
- e) Comments
- f) Adherence to time standards
- g) As far as possible, complaints should be recorded by age, gender, race and disability. (This information may not always be available but is collected on the Putting People First leaflet and monitored through questionnaires)

The Chief Executive will present reports, as appropriate, to the Chief Officers' Group, the Standards Committee and Cabinet.

5.19 Timescales

Every effort should be made to ensure that complaints are dealt with, in accordance with the timescales provided for in the Corporate Procedure. Where this is not possible, complainants should be kept fully informed of the reasons for delay and about revised timescales.

5.20 Format

The Chief Executive's Office (Policy, Research and Scrutiny Division) may be able to assist with providing the Corporate Complaints Procedure and associated documentation (e.g. the Putting People First leaflet) in different formats such as Braille and audio-tape and languages other than English.

Appendix 3

DERBYSHIRE COUNTY COUNCIL

Procedure for dealing with Unreasonably Persistent Complainants and Unreasonable Complainant Behaviour

1.0 Introduction

Derbyshire County Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to complainants. Having a procedure on unreasonably persistent complainants and unreasonable complainant behaviour helps the Council to deal with complainants in ways which are consistent and fair.

2.0 Definitions

The Local Government Ombudsman has defined 'unreasonable' and 'unreasonably persistent' complainants as those who, because of the frequency or nature of their contacts with the local authority, hinder the authority's consideration of their, or other people's, complaints.

Unreasonably Persistent Complainant Behaviour

Examples of unreasonably persistent complainant behaviour include:

- Introduction of trivial or irrelevant new information and expecting it to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Adoption of a 'scattergun' approach - pursuing a complaint with one department and, at the same time, with other departments within the authority and/or with other parties e.g. MPs, Councillors, Police, solicitors, or the Local Government Ombudsman.
- Making excessive demands on the time and resources of staff whilst the complaint is being investigated e.g. excessive telephoning or sending e-mails to numerous Council staff, writing lengthy complex letters every few days and expecting immediate responses.
- Submission of repeat complaints, after the complaints process has been completed, essentially about the same issue but with additions/variations which the complainant insists make these 'new' complaints which he/she wants to be put through the full complaints procedure.
- Refusal to accept the decision reached on the complaint, repeatedly arguing the point and complaining about the decision.

This list is not exhaustive and unreasonably persistent complainant behaviour is not limited to one, or a combination of any, of the above.

Unreasonable Complainant Behaviour

Unreasonable complainant behaviour can come about when the situation between the Council and a complainant escalates and the complainant's behaviour becomes

unacceptable e.g. abusive, offensive, or threatening. Examples of unreasonable complainant behaviour include:

- Refusal by complainant to specify the grounds of a complaint, despite offers of assistance from Council staff.
- Refusal by complainant to co-operate with the complaints process, yet still wanting his/her complaint to be resolved.
- Refusal to accept that issues raised are not within the remit of the Council's complaints procedure.
- Insistence that the complaint be dealt with in ways which are incompatible with the Council's adopted complaints procedure.
- Making apparently groundless complaints about staff dealing with the complaint and seeking to have those staff removed/replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he/she made at an earlier stage.
- Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.

This list is not exhaustive and unreasonable complainant behaviour is not limited to one, or a combination of any, of the above.

3.0 Aim

The aim of the procedure for dealing with unreasonably persistent complainants and unreasonable complainant behaviour, is to deal fairly and honestly with the complainant whilst ensuring that other service users and Council officers do not suffer any detriment from people making repeated and persistent, unreasonable complaints.

4.0 Dealing with Unreasonably Persistent Complainants

The decision to designate someone as unreasonably persistent can only be made by the departmental Complaints Manager. As appropriate, officers and Members of the Council should be informed that contact with a named complainant is being restricted and why, and who will have access to that information on request.

5.0 Assessing whether the action is proportionate and necessary

Consideration of the following points, together with any other relevant factual information, will be necessary to assess whether the proposed action is proportionate and necessary:

- Is the complaint being investigated properly and in accordance with the Council's procedure for investigating complaints?
- Is there another, more specific, path for the complainant to follow eg the appeal process if he/she is complaining about a planning decision?
- Are the correct timescales being adhered to?
- Has the complainant been advised of any delays that may have occurred?
- Are the considerations/decisions reached, as part of the investigation, being reached correctly?
- Have communications with the complainant been adequate, clear and co-ordinated?
- Has consideration been given to the possibility of mental health problems, learning disabilities, or personality disorders?

- Is the complainant now providing any significant new information that might affect the Council's view of his/her complaint?

6.0 Assessing whether further action is necessary before designating the complainant 'unreasonably persistent'

If satisfied on these points, consideration should be given to whether further action is necessary prior to making the decision to designate the complainant as unreasonably persistent, for example:

- Have any meetings taken place between the complainant and an investigating or senior officer? If not, unless there is a known risk about such a meeting, would this be likely to help the situation? The complainant may be accompanied by an advocate, if he/she wishes, if it is considered that a meeting may help the situation.
- Is more than one department or service area being contacted by an unreasonably persistent complainant? If so, consideration could be given to setting up a strategy meeting to agree a cross-service approach and designate a key officer to co-ordinate the Council's response.

7.0 Applying restrictions

Before applying any restrictions, the complainant should be given a warning in writing that if his/her actions continue, the Council may decide to treat him/her as an unreasonably persistent complainant and explain why.

8.0 Options for action

The precise nature of the action the Council decides to take should be appropriate and proportionate to the nature and frequency of the complainant's contacts with the Council at that time. It is important, however, to ensure that the Corporate Complaints Procedure has been followed.

The following is a list of some possible actions for managing a complainant's involvement with the Council:

- Placing time limits on telephone conversations and personal contacts.
- Restricting the number of telephone calls that will be taken e.g. one call on one specified day of any week.
- Limiting the complainant to one contact medium e.g. telephone, letter, e-mail and/or requiring the complainant to communicate with one named member of staff.
- Requiring personal contacts to take place in the presence of a witness.
- Refusing to register/process further complaints about the same matter.

The list is not exhaustive and local case by case factors may be relevant in deciding appropriate action.

9.0 Completed complaints

Where the complaint has gone through Stage 2 of the Council's corporate complaints procedure and it has been explained to the complainant that if he/she is still not satisfied then he/she can take the complaint to the Local Government Ombudsman. Should correspondence from the complainant continue, then a senior officer, with the agreement of the departmental Complaints Manager, will write to the complainant to inform him/her that the matter is at an end and the Council will not enter into further correspondence about the complaint, and any further letters on the same subject will be read and placed on file, but will receive no acknowledgement or response.

10.0 Dealing with Unreasonable Complainant Behaviour

The Council has a duty to ensure the health, safety and welfare of its staff and it does not expect staff to tolerate language or behaviour by complainants which is abusive, offensive, or threatening.

Members of staff who feel threatened or intimidated by the language or behaviour of complainants should report their concerns to their departmental Complaints Manager who will consider:

- Whether to write to the complainant, requiring him/her not to repeat the behaviour and, if necessary, setting conditions and restrictions for further contact with staff.
- Whether to report the incident to the Police.

This procedure sits alongside existing policies as a means of addressing the full spectrum of behaviours which the Council may need to address and where appropriate it may be useful to refer to the Council's Violence at Work Corporate Policy and Guidance:

[http://dnet/Images/036.Violence%20at%20Work%20\(Versio%201%20March%2009\)_tcm10-23647.pdf](http://dnet/Images/036.Violence%20at%20Work%20(Versio%201%20March%2009)_tcm10-23647.pdf)

10.1 Telephone contact

During a telephone conversation, if staff consider that the caller is becoming aggressive and/or offensive, they will inform the caller that they will terminate the conversation unless such behaviour ceases. If the aggression continues, the member of staff will terminate the call and a note will be placed on file explaining why the call was terminated.

Repeated calls of this nature are considered to be unacceptable and should be reported to a senior officer or departmental Complaints Manager to determine appropriate action.

10.2 Personal contact

Visitors to Council premises may show aggressive behaviour when they do not achieve the aim of their visit. Triggers for unreasonable behaviour can include:

- Not being able to see the person he/she holds responsible for his/her current situation or discontentment.

- Not being allowed instant access to the Chief Executive or Director of Service Department.
- Not being able to resolve his/her complaint during his/her visit.

Examples of aggressive and unreasonable behaviour can include:

- Shouting loudly and making demands to see the officer he/she holds responsible.
- Making threats to members of staff who are trying to help.
- Using abusive and upsetting language to members of staff.
- Refusing to leave until the problem is resolved.
- His/her continued presence causes disruption/distress to other visitors.

Difficult situations such as this can sometimes be resolved by being patient, remaining calm, listening and identifying the exact nature of the problem.

If it is not possible to resolve the situation actions may include:

- Ensure another member of staff is present. If this is not practicable, assess the situation and decide what action you should take eg leave the room to seek assistance.
- Telephone a senior manager to ask for further assistance if necessary.
- If applicable, try to remain behind the desk/table/counter – this acts as a barrier and maintains a distance, thus reducing the risk of violent behaviour.
- If the complainant refuses to calm down, press the alarm button, where available, for assistance.
- Explain clearly that you are unable to help any further but that you will pass on the details of his/her complaint to the relevant person, then, if necessary, ask the complainant to leave the premises.
- As soon as possible after the incident, write up a clear account of what has happened, listing those present at the time. Sign and date the document and forward to the departmental Complaints Manager.

This list is not exhaustive and unreasonable complainant behaviour is not limited to one, or a combination of any, of the above.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Council's staff, other options will be considered e.g. reporting the matter to the Police or taking legal action. In such cases, the complainant may not be given prior warning of that action.

11.0 Application of the Procedure

If the decision is made to apply the procedure, the relevant departmental Complaints Manager will write to the complainant to:

- Inform him/her that the decision has been taken to invoke the procedure.
- Explain what it means for his/her contacts with the Council.
- Explain how long any restrictions will last.
- Explain what the complainant can do to have the decision reviewed.
- Enclose a copy of the procedure with the letter.

12.0 Records

Adequate records must be kept of all contacts with unreasonably persistent complainants and complainants behaving unreasonably. The information should be treated as confidential and only shared with those who may be affected by the decision.

Key information to be recorded includes:

- When a decision is taken to apply, or not to apply, the procedure following a request to do so by a member of staff.
- When a decision is taken to make an exception to the procedure after it has been applied, e.g. if extenuating circumstances subsequently come to light.
- When a decision is taken, and the reason, not to put a further complaint from the same complainant through the complaints procedure.
- When a decision is taken not to respond to further correspondence, having made sure that any further letters, faxes, e-mails, etc from the complainant do not have any significant new information.

13.0 Future Complaints by the same Complainant

When/if the complainant makes a complaint about a new issue this should be treated on its merits and a decision will need to be taken on whether any restrictions which have been applied before are still appropriate/necessary.

14.0 Reviews of Decisions

Reviews of decisions to restrict a complainant's contacts, or the Council's responses to those contacts, should be carried out in accordance with agreed timescales or at least every six months by the appropriate officer in liaison with Management Team.

If no further contact has been received from the complainant over a period of six months, consideration may be given to cancelling the restrictions. However, urgent assessment will be necessary to re-introduce them if behaviour which led to the original decision recommences.

15.0 Referral to the Local Government Ombudsman

In some cases, relations between the authority and the complainant can break down and there is little prospect of achieving a satisfactory outcome. In such circumstances there is often little point in working through all stages of the Council's complaints procedure. Where this occurs, the Ombudsman may be prepared to consider a complaint before the Council's complaints procedure has been exhausted.

A complainant who has been designated '*unreasonably persistent*' or using '*unreasonable complainant behaviour*', may make a complaint to the Ombudsman about the way in which he/she has been treated.

The Ombudsman is unlikely to be critical of the Council's action if it can be shown that the Council's procedure has been operated properly and fairly.

16.0 Relationship with other Procedures/Policies

This procedure should be read in conjunction with the following and any other Council policies, as appropriate:

- Complaints Procedures
- Health & Safety Policy
- Equality and Diversity Policy