

## **AMMENDMENT TO CORPORATE COMPLAINTS, COMMENTS & COMPLIMENTS POLICY**

**Submitted by:** Executive Director Resources & Support Services

**Portfolio:** Customer Service and Transformation

**Ward(s) affected:** Non specific

### **Purpose of the Report**

To seek Cabinet approval to revise Section 9 the Corporate Complaints, Comments and Compliments Policy (3Cs policy) to incorporate the latest Local Government Ombudsman (LGO) guidelines with regard to 'vexatious or serial complainants'; now referred to as 'unreasonable complainants'.

### **Recommendation**

**That Section 9 of the Corporate Complaints, Comments and Compliments Policy (3Cs Policy) is revised, as set out in Appendix B of this report, to incorporate the Local Government Ombudsman new guidelines regarding 'unreasonable complainants'.**

### **Reasons**

1. The LGO has recently released new guidelines on how to deal with 'vexatious and serial complainants'; now referred to as 'unreasonable complainants'. Although the LGO recommendations are not statutory, many Local Authorities have already adopted the new guidance.
2. To ensure the Council is dealing with unreasonable complainants consistently, fairly and in line with LGO recommendations.

## **1. Background**

- 1.1 The Council strives to deal with complainants in ways that are open, fair and proportionate. The current 3Cs Policy covers 'vexatious, professional and hobby complainants' and provides guidance on how to identify instances of, and deal with, these events. The latest LGO guidance goes much further by identifying and detailing what it now refers to as 'unreasonable complainant behaviour', which may include one or two isolated incidents, as well as 'unreasonably persistent behaviour', which is usually an accumulation of incidents or behaviour over a longer period. The LGO defines these as follows:

"For us, unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their or other people's, complaints."

- 1.2 The new guidance helps to ensure the right balance between dealing with the complaint and complainant fairly and effectively, and the level of resources being applied to achieve a conclusion.
- 1.3 The proposed changes will be of practical benefit and will assist the Council to deal with present and future cases falling within the LGO's new guidelines.

## 2. **Issues**

- 2.1 Almost all complainants see themselves as pursuing justified complaints. A small number, under the new guidance, qualify as unreasonable or unreasonably persistent. A considered, policy-led approach to these complainants helps staff to understand clearly what is expected of them, what options for action are available, and who can authorise these actions. This information can be shared with complainants if they start to behave unreasonably and can assist in managing their expectations and their behaviour, as far as possible, while the substance of their complaint is addressed.
- 2.2 Section 9 of the current Policy is relatively brief. It covers high volume complaints from single individuals, extensive correspondence, simultaneous complaints to a range of officers, complaints being re-interpreted or extending and a reluctance to accept proposed resolutions. A review of the resultant workload is undertaken and the risks of compromising other workloads are considered.
- 2.3 The current Policy offers a resolution meeting to achieve a more manageable approach after which the Council will not engage in communication once an individual complaint is deemed to have been effectively dealt with through the complaints process. Section 9 of the current policy is attached at Appendix A.
- 2.4 The new guidelines from the LGO go further both in the identification and definition of unreasonable complaints and unreasonable behaviour, and in the range of actions which might be available to councils in such circumstances. A proposed revised Section 9 of the Policy, incorporating the new guidelines, is attached at Appendix B.
- 2.5 The new guidance also provides wider options for action for the Council to consider. Full details of the options are shown in Appendix B. It should also be noted that the Council's policies on equal opportunities, health and safety, and all other relevant policies will be considered in each case.
- 2.6 Although the LGO guidelines are not statutory, they are considered good practice. A number of these complaints will end up with the LGO. A complainant who has been treated as behaving unreasonably may make a complaint to the LGO about that element alone. The LGO is unlikely to be critical of the Council's action if it can demonstrate that it acted proportionately and in accordance with its adopted policy.

## 3 **Options Considered**

- That the Council continues to operate its existing vexatious, professional and hobby complaints procedure within the 3Cs policy.
- That the Council revises Section 9 of the current 3Cs Policy in line with the latest LGO guidelines.

## 4 **Proposal**

- 4.1 That the LGO guidelines be adopted as detailed in the revised Section 9 of the Council's Complaints, Comments and Compliments Policy, shown as Appendix B.

## 5. **Reasons for Preferred Solution**

- To follow the latest guidelines issued by the LGO
- To ensure the council is consistent and fair in its dealings with unreasonable complainants

- To provide a robust process of identifying and dealing with unreasonable complainants.

## **6. List of Appendices**

**Appendix A:** Existing - Corporate Complaints, Comments and Compliments Policy Revised October 2011 Section 9: Vexatious, professional and hobby complaints

**Appendix B:** Proposed - Corporate Complaints, Comments and Compliments Policy Revised May 2012 Section 9: Unreasonable Complaints and Unreasonable Complainant Behaviour

## **Appendix A - Existing**

### **Complaints, Comments, and Compliments Policy Revised Oct 11**

#### **Section 9**

##### **9. Vexatious, Professional and Hobby Complainants**

**9.1** It is possible for a small number of customers to generate a level of complaint workload which risks compromising either service delivery in the service being complained about or the Council's ability to respond to complaints received. These instances may involve:

- High volume of complaints submitted, often with a reluctance to accept resolution being offered.
- High volume of complaints, with complaints submitted simultaneously to various Officers.
- Extensive correspondence on individual complaints, with complaints being re-interpreted or extended.

**9.2** Such complaints need to be managed appropriately to:

- Avoid genuine, well founded complaints made by frequent complainants becoming 'lost' within the overall volume of that customer's correspondence.
- Avoid such complaints from having a negative impact on service delivery or general complaint management.

**9.3** The 2 Stage complaint process will minimise the negative impact of such complainants through avoiding engagement in lengthy exchanges of communications. However, where an Executive Director, Head of Service or the Customer Relations Officer becomes concerned that an individual complainant is generating a workload which risks compromising other areas of work, the Customer Relations Officer will review the volume of work being generated, the customer's expectations of the Council, and the nature of complaints made and responses received. Where the Customer Relations Officer judges that the complainant is generating excessive workload, the complainant will be invited to meet him/her to discuss the complaint/correspondence volume and the impact this is having with a view to agreeing a more manageable approach to addressing the customer's concerns.

**9.4** The Council will not engage in communication once an individual complaint is deemed to have been effectively dealt with through the complaint process.

## Appendix B - Proposed

### Corporate Complaints, Comments and Compliments Policy Revised May 2012

#### Section 9

#### **9. Unreasonable Complaints and Unreasonable Complainant Behaviour**

**9.1** This element of the policy covers both unreasonable complainant behaviour (which may include one or two isolated incidents) and unreasonably persistent behaviour (usually an accumulation of incidents or behaviour over a longer period). Unreasonable and unreasonably persistent complainants are those complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their complaints or other people's complaints.

**9.2 The following are examples of** unreasonable actions and behaviours which can be time consuming to manage and can interfere with proper consideration of the complaint. These have been advised by the Local Government Ombudsman.

- Refusing to specify the grounds of a complaint, despite offers of assistance.
- Refusing to co-operate with the complaints investigation process.
- Refusing to accept that certain issues are not within the scope of a complaints procedure.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds.
- Denying or changing statements made at an earlier stage.
- Introducing trivial or irrelevant new information at a late stage.
- Raising numerous, detailed but unimportant questions; insisting that they are answered.
- Covertly recording meetings and conversations.
- Submitting falsified documents from themselves or others.
- Adopting a 'scatter gun' approach: pursuing parallel complaints on the same issue with a variety of other organisations or departments.
- Making excessive demands on the time and resources of staff with lengthy telephone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses.
- Submitting repeat complaints with minor additions/variations that the complainant insists make these 'new' complaints.
- Refusing to accept the decision; repeatedly arguing points with no new evidence.

This list is not exhaustive.

These, and similar actions, which detract from the Council's ability to properly consider a complaint, will be deemed by Newcastle under Lyme Borough Council as unreasonable actions and behaviours and will be considered 'trigger' actions or behaviours which may cause the elements of this policy as set out in section 9.4 below to be invoked.

**9.3** Before any of these actions are invoked the complainant will be advised of this policy and warned that restrictive actions may need to be applied if their behaviour continues. If a decision is taken to apply restricted access, the Council will write to the complainant to explain:

- why the decision has been taken
- what it means for his or her contacts with the organisation

- how long any restrictions will last
- what the complainant can do to have the decision regarding their behaviour reviewed.

Any review requested by the complainant of the Council's actions or proposed actions under section 9 of this policy will be undertaken by the Head of Customer and ICT Services. The complainant will be informed of the outcome of that review.

**9.4** Where an Executive Director, Head of Service or the Customer Relations Officer identifies unreasonable actions and behaviours, the Customer & ICT Business Manager will review the volume of work being generated, the behaviour of the complainant, their expectations of the Council, and the nature of complaints made and responses received. Where the Customer & ICT Business Manager considers that the complainant is acting or behaving unreasonably as indicated in section 9.2 above, one or more of the following procedures may be adopted to bring the matter to a conclusion without further distractions:

- Placing limits on the number and duration of contacts with staff per week or month.
- Offering a restricted time slot for any necessary calls.
- Limiting the complainant to one medium of contact (telephone, letter, email etc).
- Requiring the complainant to communicate only with one named member of staff.
- Requiring any personal contacts to take place in the presence of a witness, and in a suitable location.
- Refusing to register and process further complaints about the same matter.
- Advising the complainant, after a decision on the complaint has been made, that future correspondence will be read and placed on the file but not acknowledged, unless it contains significant new material or information.
- Inviting the complainant to meet the Customer & ICT Business Manager or other senior officer to discuss the complaint/correspondence nature and/or volume and its impact with a view to agreeing a more manageable approach to addressing the complainant's concerns.

Decisions made and actions taken will be proportionate to the nature and frequency of the complainant's current contacts. Decisions will take the complainant's behaviour and individual circumstances fully into account. The Council's policies on equal opportunities, health and safety, and all other relevant policies will also be taken into account. In particular, the Customer & ICT Business Manager will ensure help is offered to find a suitable independent advocate, if the complainant has different needs other than those normally provided by Customer Services.

**9.5** Where the Council's consideration of the complaint is concluded, the Council may end all communication with the complainant on the issue and, where appropriate, refer the complainant to the Local Government Ombudsman. Before this action is taken the Head of Customer and ICT Services will review the handling of the complaint to ensure:

- the complaint has been investigated properly;
- any decision reached on it is the right one;
- communications with the complainant have been adequate;
- the complainant is not now providing any significant new information that might affect the organisation's view on the complaint.

**9.6** In exceptional circumstances, where the Council considers there may be nothing to gain from following through all stages of its complaints procedure, the Local Government Ombudsman may be asked by the Council to consider the matter before its own complaints procedure has been exhausted. The complainant will be notified of this request.

- 9.7** The Customer & ICT Business Manager will ensure a coordinated response is made where any cross-departmental issues are involved and ensure a single, coordinated response to the complainant.
- 9.8** The Customer & ICT Business Manager will keep adequate records to show when decisions are taken in pursuance of section 9 of this policy. The Customer & ICT Business Manager will also ensure any further communications from the complainant are checked to identify any significant new information. When complaints about new issues are made, these will be treated on their individual merits. Any restrictions previously applied may or may not be considered to be still appropriate or necessary. These restrictions (see section 9.4 above) will be lifted and relationships returned to normal unless there are good grounds to extend the restrictions. The Customer & ICT Business Manager will keep the application of any restrictions under review. The Ombudsman suggests a 3 month period of review. Any evidence will be gathered over the set period of review. If the unreasonably persistent complainant adheres to the restrictions they will be lifted and the complainant notified. In exceptional circumstances, restrictions could be permanent.
- 9.9** Should the Customer & ICT Business Manager be the subject of the complaint, another senior officer, not connected to the service, will be appointed by the Head of Customer and ICT Services to undertake the responsibilities of the Customer & ICT Business Manager in applying this Policy.