



# **Wrexham County Borough Council -**

## **Corporate & Statutory Complaints Policy**

**December 2016**

## Document Control Sheet -

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This document is to be read in conjunction with the following documents:

- Model Concerns and Complaints Policy and Guidance  
[https://www.ombudsman-wales.org.uk/~media/Files/Documents\\_en/Model%20Complaints%20Policy%20Final%20PSOW.ashx](https://www.ombudsman-wales.org.uk/~media/Files/Documents_en/Model%20Complaints%20Policy%20Final%20PSOW.ashx)
- Social Services Complaints Procedure (Wales) Regulations 2014  
<http://wales.gov.uk/topics/health/socialcare/complaints/?lang=en>
- Representation Procedure (Wales) Regulations 2014  
<http://wales.gov.uk/topics/health/socialcare/complaints/?lang=en>
- Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse (January 2013)  
[http://ssiacyrmru.org.uk/home.php?page\\_id=8297](http://ssiacyrmru.org.uk/home.php?page_id=8297)
- All Wales Child Protection Procedures 2008  
[http://www.ssiacyrmru.org.uk/home.php?page\\_id=298](http://www.ssiacyrmru.org.uk/home.php?page_id=298)
- School Complaints Procedure  
<http://gov.wales/docs/dcells/publications/121002complaintsschoolsen.pdf>
- WCBC Unreasonably Persistent and/or Vexatious Complainants Policy  
[www.wrexham.gov.uk/complaints](http://www.wrexham.gov.uk/complaints)
- WCBC Counter Fraud Strategy  
[http://www.wrexham.gov.uk/english/council/benefits/fraud/anti\\_fraud.htm](http://www.wrexham.gov.uk/english/council/benefits/fraud/anti_fraud.htm)

### Version Control

Version	Date	Brief Description of Changes	Comments
2	December 2016	Reviewed and updated	Updated to reflect some operational changes and improve clarity for customers

PLEASE NOTE: the formally approved copy of this document is held SAM. Printed copies or electronic saved copies must be checked to ensure they match the current online version.

Review Date – March 2018

## Version 2 -

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## **1. INTRODUCTION**

- 1.1 Wrexham County Borough Council is committed to dealing effectively with any concerns or complaints a person may have about its services. The Council aims to clarify any issues about which a complainant is unsure. If possible, any mistakes that may have been made will be rectified.
- 1.2 The Council will always try to provide the service a person is entitled. If the Council got something wrong, an apology and redress where appropriate will be offered. The Council also aims to learn from its mistakes and use the information to improve its services.

## **2. CORPORATE & STATUTORY COMPLAINTS PROCEDURES**

- 2.1 This policy has been established in accordance with the Welsh Government Model Concerns and Complaints Policy and Guidance (Corporate Complaints Procedure) and both the Social Services Complaints Procedure Wales Regulations 2014 and the Representations Procedure Wales Regulations 2014 (Statutory Complaints Procedure).
- 2.2 If a person receives support from Social Services and the complaint relates to that service, it will be dealt with in accordance with the Statutory Social Services Complaints Procedure.
- 2.3 Complaints about other Council services will be dealt with in accordance with the Welsh Government Model Concerns and Complaints Policy and Guidance, which is supported and endorsed by the Public Services Ombudsman for Wales.

## **3. WHEN TO USE THIS POLICY**

- 3.1 When a person expresses a concern or complaint to the Council, it will usually address these in accordance with either the Corporate or Statutory Complaints procedure. However, there are occasions when the Council cannot investigate a complaint which falls under a specific jurisdiction, for example a complaint about a Freedom of Information request or a matter relating to Child or Adult Protection. In these cases, the Council will advise you accordingly. Complaints about Schools are also addressed under a separate procedure, in accordance with Welsh Government guidelines.
- 3.2 Alternatively, a person may have a statutory right of appeal, for example, a refusal to grant planning permission or the decision not to allocate a child a place in a parent's preferred school. A person might be concerned about matters that are not decided by the Council, for example decisions made by the courts, independent contractors/agencies or health services.
- 3.3 The Complaints Procedure cannot consider concerns or appeals relating to Fixed Penalty Notices. These matters follow a legal process, using the details provided on the ticket issued by the Enforcement Officer.

- 3.4 Where this is the case, the complainant will be advised of what alternative action or actions can be taken to ensure the complaint or concern is addressed under the most appropriate procedure.

#### **4. REPORTING SERVICE FAILURES**

- 4.1 The complaints procedures would not apply if a person contacts the Council to report a fault or a service failure (e.g a faulty street light, pothole or missed bin collection). The person should first allow the Council the opportunity to respond to the request.
- 4.2 If there are at least three separate service failures e.g. missed waste collections, within a six month period where the Council is at fault, this matter can then be escalated through the Complaints Procedures. The Complaints Team will seek to determine the cause of the failures and recommend a solution to the problem, though the relevant Department would still be responsible for processing such reports.

#### **5. DEFINITION OF A COMPLAINT**

- 5.1 In accordance with both the Corporate and Statutory Complaints procedures, 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 a public service provider's action or lack of action; or
  - About the standard of service provided.
- 5.2 A complaint requires a response, whether about the public service provider itself, a person acting on its behalf, or a public service provider partnership.
- 5.3 A complaint is not:
- An initial request for a service;
  - A reporting of a fault or a service failure;
  - A formal review or appeal against a decision or determination, the procedure for which is set out in policy, legislation or regulations;
  - A means to seek change to legislation or to challenge a "properly made" policy decision;
  - A means for lobbying groups/organisations to seek to promote a cause;
  - A means to challenge or dispute a course of action set by a Court;
  - An allegation of fraud against the Council, its employees or any third party associated with the Council as these will be dealt with under the Counter Fraud Strategy; or
  - A request for compensation and / or damages through a claim against the Council.

- 5.4 The following matters are excluded from consideration as complaints:
- A complaint which has previously been investigated under this or the former complaints procedure;
  - A complaint which is being or has been investigated by the Public Services Ombudsman for Wales;
  - A complaint about a matter which may be subject to legal proceedings by either the complainant or the Council;
  - A complaint about alleged failure to comply with a request under the Freedom of Information Act 2000;
  - A complaint about Social Services that is made orally, and is resolved to the satisfaction of the person who made the complaint, by the end of the working day following the day on which the complaint was made.
  - A complaint about a service where there is a separate process for recourse or appeal as described in section 3 of this policy.

## **6. HOW TO MAKE A COMPLAINT**

- 6.1 Wrexham County Borough Council accepts complaints in all recognised formats. On occasions, particularly if the complaint is lengthy or complex the complainant may be asked to confirm the full details and their desired outcomes in writing. This is to ensure that the Council fully understands each element of the complaint and can investigate accordingly. If the complainant requires support to make the complaint, the Council can arrange this either through a member of staff or an advocacy service. Please contact the Complaints Team to request this.
- 6.2 Under the Corporate Complaints Procedure, the Council would only usually consider complaints about issues that have occurred within the last 6 months. For Statutory complaints, this is extended to 12 months. The Council may exceptionally be able to look at concerns which are brought to its attention later than this; however, the complainant will have to provide strong reasons why they have not been able to bring it to the Council's attention earlier. The Council will then determine if there is sufficient information about the issue to allow for it to be investigated.
- 6.3 Complainants using any procedure have the right to choose to correspond in the Welsh language throughout the complaints procedures.

## **7. CONTACT DETAILS**

- 7.1 A complaint can be raised in any of the ways below.
- With the member of staff with whom the person is already in contact e.g. social worker or housing officer.
  - Online at: [www.wrexham.gov.uk/complaints](http://www.wrexham.gov.uk/complaints), or
  - Via the Complaints Team:

Letter: Complaints Team  
Wrexham County Borough Council  
Guildhall  
Wrexham  
LL11 1AY

E-mail: [complaints@wrexham.gov.uk](mailto:complaints@wrexham.gov.uk)  
Tel: 01978 292087

## **8. CORPORATE COMPLAINTS PROCEDURE**

- 8.1 The Corporate Complaints Procedure is set in accordance with the Model Concerns and Complaints Policy and Guidance, developed by the Welsh Government. A complaint will usually be considered under this procedure unless it relates to the social service that a person receives. If the complaint is about social services but is not from a service user (or someone acting on behalf of a service user), the complaint will be considered under this Corporate Complaints Procedure.
- 8.2 The procedure has two stages; informal and formal. The Council will usually try to resolve the complaint informally in the first instance unless the seriousness of the complaint requires a formal investigation. A person may request their complaint is addressed as a formal complaint immediately, however there may be occasions when this is not appropriate. Should this be the case, the final decision will be made by the Complaints Manager and the decision conveyed to the complainant.
- 8.3 The Council will ensure that no one is disadvantaged because they have expressed a concern or made a complaint. If a person makes a complaint on behalf of somebody else, the Council will usually need the consent of that person for the complainant to act on their behalf.
- 8.4 **Informal Resolution**
- 8.4.1 If possible, the Council believes it is best to deal with issues immediately rather than attempt to resolve them later. Initially the Council encourages people to raise their concern with the person they are dealing with, who will attempt to resolve it immediately. If the member of staff cannot help, they will explain why and a complainant can then ask for a formal investigation.
- 8.4.2 If the complaint covers more than one body, the Council will usually work with those bodies to decide who should take a lead in investigating. The complainant will then be given the name of the person responsible for communicating with them while the complaint is being considered.
- 8.4.3 If the complaint is about a body working on behalf of the Council e.g. repair contractors, the Council will look into the issues on behalf of the complainant and respond to them.

## 8.5 Formal Investigation

- 8.5.1 If a complainant remains dissatisfied with the response of the team or service they have initially complained to, they can request that the complaint is formally investigated.
- 8.5.2 In some instances, the Council may ask to meet the complainant to discuss their concerns or request that the complainant provides more specific information to support their complaint. Occasionally, mediation may be offered to try to resolve disputes. If there is a simple solution to the complainant's problem, the Council may ask if the complainant is happy to accept this. For example, where the complaint is regarding a failure to provide a service and it is immediately evident that the Council should have provided the complainant with this service, this will be offered and then confirmation of this outcome sent in writing.
- 8.5.3 The investigation will be conducted by an Investigator within the Complaints Team, who is independent of the service subject to the complaint.
- 8.5.4 Before the investigation commences, the Investigating Officer will agree with the complainant the details of the complaint and desired outcomes. The Council will formally acknowledge the complaint within 2 working days of its receipt. The Council will usually communicate with the complainant in the same method as the complaint was made (e.g. letter or e-mail).
- 8.5.5 The Council will aim to resolve concerns as quickly as possible and expect to deal with the vast majority within 20 working days. Occasionally, additional time may be required to complete the investigation. This may be because the complaint is complex, involves consideration of a lot of evidence or key members of staff are unavailable. Where this is the case the complainant will be informed and kept updated until the investigation is concluded.
- 8.5.6 The investigation will consider all relevant evidence. This could include files, notes of conversations, letters, e-mails or anything else that may be relevant to the complaint. If necessary, staff or others involved will be interviewed and the relevant policies, procedures and legal entitlement and guidance will be considered. By making a formal complaint, the person is consenting to the Investigating Officer accessing the relevant files the Council hold in relation to the complaint. This information will be treated in the strictest confidence and will only be shared with those involved in the complaint, for example the relevant manager or a member of staff who is subject to the complaint.
- 8.5.7 The Council will write a response to the complaint once the investigation is concluded. This will include the findings, conclusions and recommendations (if applicable). If action is required to be taken to resolve the complaint, the Council will devise an action plan to monitor this and ensure those actions are completed.

## **9. STATUTORY SOCIAL SERVICES COMPLAINTS PROCEDURE**

9.1 Complaints about Social Services are dealt with in accordance with statutory regulations and the Council cannot deviate from these without good cause.

9.2 The Social Services Complaints Procedure should be used by people who receive a service from the Social Services Departments. If a complaint is raised on behalf of a relative or friend, the Council may require their consent. If this is the case the complainant will be advised of this.

### **9.3 Stage One - Local Resolution**

9.3.1 If the Council is unable to resolve a complaint immediately, a formal acknowledgement will be sent within 2 working days and will state who will investigate the matter. This will contain a summary of the complaint and desired outcomes (if the complaint was not submitted in writing). Details of the complaints procedure will be enclosed with the acknowledgement.

9.3.2 The Council will then offer the complainant a discussion with the appropriate manager. Should such a discussion be required, arrangements will be made for this to take place within 10 working days of the date of acknowledgement. In the case of a Representation (a complaint made on behalf of a person with their consent), arrangements will be made for any required discussion to take place within 10 working days of the complaint start date – this being the date in which the Council is satisfied the person has the consent to make the complaint on the service users behalf.

9.3.3 When the complaint has been resolved, the manager will provide a written response within 5 working days of the date of resolution. If it is not possible to provide the complainant with a response within these timescales, the complainant will be contacted to discuss the reason for the delay and agree an alternative date for the response.

9.3.4 If the complaint relates to the support a person receives from an independent provider / agency, such as domiciliary care, residential care or supported living, the complaint will be referred directly to that agency for them to address. If the complainant is dissatisfied with their response, they can ask the Council to review this. The Council will then decide if the response appropriately addressed all elements of the complaint. If not, the agency will be instructed to reconsider the complaint. Alternatively, the complainant can escalate their concerns to the Care and Social Services Inspectorate Wales (CSSIW), who are responsible for inspecting social care services, or the Public Services Ombudsman for Wales.

### **9.4 Stage Two – Formal Investigation**

9.4.1 If the complaint has been considered at Stage One and the complainant remains dissatisfied with the outcome, they may ask for the complaint to be investigated at Stage Two by a person who is independent of the Council.

The complainant must clearly state the reasons why they remain dissatisfied following their response at Stage One and what their desired outcomes are.

- 9.4.2 The Council will commission an Independent Investigator to investigate the complaint. This person will be selected from an approved list shared between the six north Wales authorities and will not be an employee of Wrexham Council.
- 9.4.3 The Independent Investigator will interview all parties and produce a report of their findings, conclusions and recommendations. This report will be sent to the complainant, along with a response from the Director of Social Services.
- 9.4.5 In the case of a child, at this stage an independent person is also appointed to take part in the formal consideration and any discussion about the action the Council should take (in accordance with the Children Act 1989). The Independent Person's role is to oversee the handling of the complaint.
- 9.4.6 Before the investigation starts, the Council will compile a formal written record of the complaint and desired outcomes within 5 working days of the date it is received, although on occasions it may be more appropriate for this to be written and agreed directly with the Independent Investigating Officer.
- 9.4.7 The date on which the details of the complaint are agreed by both the Council (or Independent Investigating Officer) and the complainant will be the start date for the complaint.
- 9.4.8 The response from the Director of Social Services to the Stage Two report should be issued within 25 working days of the start date. If this is not possible, the Council will inform the complainant and explain why, giving an indication when they can expect to receive a response. In any event, a response to a complaint must be provided within 6 months.
- 9.4.9 Whilst it is recommended that a complainant makes every attempt to resolve their complaint informally at first, they have the right to ask for a complaint to be considered at this stage from the outset. The Council would expect the complainant to provide a valid reason why they do not wish for their complaint to be considered at Stage One.

## **10. CONCURRENT INVESTIGATIONS**

- 10.1 Where matters are subject to concurrent consideration, the Council will not consider, or further consider a complaint under either the corporate or statutory complaints procedures.
- 10.2 Those matters include:
- The complainant has indicated that they are taking or intend to start legal proceedings;
  - The Council is considering legal proceedings, for example, care proceedings or Court of Protection proceedings;

- the Council is taking or proposing to take disciplinary proceedings against a staff member;
- The Council is aware that a prosecuting authority – for example the police or the Care and Social Services Inspectorate for Wales – is investigating with a view to a criminal prosecution.

10.3 There will be no complaints investigation while there is a danger of compromising any adult or child protection process. Complaints about adult or child protection will be considered in accordance with the Wales Interim Policy and Procedures for the Protection of Vulnerable Adults from Abuse and All Wales Child Protection Procedures.

10.4 If any of the above applies, the Council will write to advise the complainant of this and how the matter can be progressed.

## **11. PUBLIC SERVICES OMBUDSMAN FOR WALES**

11.1 If the Council does not succeed in resolving the complaint, a complainant can contact the Public Services Ombudsman for Wales. The Ombudsman can look into a complaint if the complainant believes that they personally, or the person on whose behalf they are complaining:

- Have been treated unfairly or received a bad service through some failure on the part of the body providing it;
- Have been disadvantaged personally by maladministration or service failure

11.2 The Ombudsman expects the complainant to bring their concerns to the attention of the Council initially to allow an opportunity for the Council to address them.

11.3 The Public Services Ombudsman for Wales can be contacted in the following ways:

Phone: 0845 601 0987  
 E-mail: [ask@ombudsman-wales.org.uk](mailto:ask@ombudsman-wales.org.uk)  
 Website: [www.ombudsman-wales.org.uk](http://www.ombudsman-wales.org.uk)  
 Letter: Public Services Ombudsman for Wales  
 1 Ffordd yr Hen Gae, Pencoed, CF35 5LJ

## **12. LEARNING LESSONS**

12.1 The Council takes concerns and complaints seriously and tries to learn from any mistakes that may have been made. The Council regularly report to senior managers on complaints about their service and produce a six monthly and annual report, which are presented to members of the relevant Scrutiny Committees and made available on the Council website.

12.2 Where action needs to be taken following a complaint, an action plan will be developed setting out how the Council will address the issues.

### **13. COMPLAINANT RESPONSIBILITIES**

- 13.1 In times of trouble or distress, some people may act out of character. There may have been upsetting or distressing circumstances leading up to a concern or a complaint. The Council does not view behavior as unacceptable simply because someone is forceful or determined.
- 13.2 The Council believes that all complainants have the right to be heard, understood and respected, but also consider that staff have the same rights. The Council, therefore, expects complainants to be polite and courteous in their dealings with staff. The Council will not tolerate aggressive or abusive behavior, unreasonable demands or unreasonable persistence. The 'Unreasonably Persistent and/or Vexatious Complainants' policy states how the Council will manage situations where it finds a complainant's actions unacceptable.