

PEMBREY AND BURRY PORT TOWN COUNCIL



Complaints Policy and Procedures

Filename:	Shared documents/HR/Policies/Complaints Policy and Procedures
Date Adopted:	Wednesday 17 th April 2019

Pembrey and Burry Port Town Council is committed to providing a quality service for the benefit of the people who live or work in its area or are visitors to the locality. If you are dissatisfied with the standard of service you have received from this council, or are unhappy about an action or lack of action by this council, this Complaints Procedure sets out how you may complain to the council and how we shall try to resolve your complaint.

When to use this policy

When you express your concerns or complain to us, we will usually respond in the way we explain below. However, sometimes you may have a statutory right of appeal so, rather than investigate your concern, we will explain to you how you can appeal. Sometimes, you might be concerned about matters that are not decided by us e.g Planning applications that are determined by Carmarthenshire County Council and we will then advise you about how to make your concerns known.

Also, this policy does not apply if the matter relates to a Freedom of Information or Data Protection issue. In this circumstance, you should contact:

Information Commissioner' office – Wales
2nd Floor, Churchill House
Churchill Way
Cardiff CF10 2HH
Telephone: 029 2067 8400 Fax: 029 2067 8399 Email: wales@ico.org.uk

What is a complaint?

This Complaints Procedure applies to complaints about council administration and procedures and may include complaints about how council employees have dealt with your concerns.

Complaints are a result of dissatisfaction with the service provided. An initial request for a service is not a complaint and for the purpose of this procedure a complaint has been defined as: 'any expression of dissatisfaction about the standard of service, actions, or lack of action by the Council or its employees, which the complainant feels should have been provided'

The Complaints Procedure is intended to cover issues such as:

- A failure to provide a service at the level or standard expected by the Council.
- The unhelpful attitude of a Council employee.
- Neglect or delay in answering a query or responding to a request for a service.
- A failure to follow the Council's agreed policies, rules or procedures.
- A failure to consider all information in coming to a decision.
- A failure to inform people of their rights.
- Malice, bias or unfair discrimination, and in particular discrimination or harassment on the grounds of age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, gender and sexual orientation.

This Complaints Procedure does not apply to:

Complaints by one council employee against another council employee, or between a council employee and the council as employer or by a former council employee (who ceased to be an employee within the last 12 months). If the issue is to do with aspects of the former employee's employment, such issues will be dealt with under the council's disciplinary and grievance procedures.

Complaints against councillors. Complaints against councillors are covered by the Code of Conduct for Members adopted by the Council in November 2018.

Procedure

- You may make your complaint about the council's procedures or administration to the Clerk. You may do this in person, by phone, or by writing to or emailing the Clerk. The addresses and numbers are set out below.

Pembrey and Burry Port Town Council
Memorial Institute
Parc y Minos Street
Burry Port SA16 0BN
01554 834346
info@pembreyburryport-tc.gov.uk

- Wherever possible, the Clerk will try to resolve your complaint immediately. If this is not possible, the Clerk will normally try to acknowledge your complaint within five working days.
- If you do not wish to report your complaint to the Clerk, you may make your complaint directly to the Chair of Finance, Governance and Personnel Committee who will report your complaint to the Council.
- The Clerk or the Council (as appropriate) will investigate each complaint, obtaining further information as necessary from you and/or from staff or members of the Council.
- The Clerk or the Chair of the Finance, Governance and Personnel Committee will notify you within 20 working days of the outcome of your complaint and of what action (if any) the Council proposes to take as a result of your complaint. (In exceptional cases the twenty working days timescale may have to be extended. If it is, you will be kept informed.)
- If you are dissatisfied with the response to your complaint, you may ask for your complaint to be referred to the Audit and Resolutions Sub Committee or to the full Council (as appropriate) and (usually within eight weeks) you will be notified in writing of the outcome of the review of your original complaint.

Local Government Ombudsman

If a complainant is unhappy about the way that the Council has dealt with their complaint, they can contact the Local Government Ombudsman, who is independent and can investigate

complaints about most Council matters. The Ombudsman would normally expect a complaint to be made within 12 months of when the complainant first knew of the problem that they are complaining about. Contact details are as follows:

Public Services Ombudsman for Wales
1 Ffordd yr Hen Gae
Pencoed CF35 5LJ
0300 790 0203

The Public Services Ombudsman for Wales normally requires all complainants to go through all stages of their Council's own Complaints Procedure before considering the complaint. However, in certain circumstances the Ombudsman has the discretion to waive this requirement. This might be because delay could cause harm to the complainant. The complainant should be advised of the normal requirement to complete the Council's Complaints Procedure but also that they can contact the Public Services Ombudsman for further advice.

Full details of how the Local Government Ombudsman deals with complaints can be found on the Ombudsman website www.ombudsman-wales.org.uk.

Remedy and outcomes

A complaint will normally have three outcomes - upheld, partially upheld and not upheld.

A complaint is upheld when the Council confirms it was at fault in its actions or lack of actions and that the responsibility for this lies predominantly with the Council.

A complaint is partially upheld when the Council was partially at fault in its actions, but the actions of the complainant or a third party also contributed significantly to the situation that resulted in the complaint

A complaint is not upheld when the Council decides it was not at fault in its actions and acted in accordance with policy and procedures, and in good faith

Where a complaint investigation identifies that things have gone wrong, an appropriate remedy will be determined. The general principle in determining a remedy is that, as far as possible, the complainant should be put in the position he or she would have been in had things not gone wrong. The appropriate remedy will depend on the individual case. Often, an apology may be the only necessary action. In other cases, more will be required but an apology will be given to the complainant, especially when the complaint is upheld or partially upheld.

Other appropriate remedies include:

- an explanation of what went wrong and why
- the provision, within a stated timescale of any service that was not provided, or was provided but not to an acceptable standard, that resulted in the original complaint
- clear action and steps to put things right

Unreasonably persistent or vexatious complaints

The Council acknowledges that certain complaints can be difficult to resolve and can cause anxiety and distress to complainants, employees and councillors. Whilst the Council's aim is to try to find a way to resolve matters, from time to time complainants are encountered who become unreasonably persistent or vexatious in their quest to obtain the outcome they want.

The Council wants to ensure that, in using the Complaints Procedure, complainants who are unreasonably persistent or vexatious are dealt with fairly, honestly and properly, that the resources of the Council are used as effectively as possible and that other service users or employees of the Council do not suffer any detriment as a result of their behaviour. All reasonable measures will be taken to try to resolve complaints through the Complaints Procedure. It is not possible to provide an exhaustive list to define unreasonably persistent or vexatious complaints.

However, the Council would consider this to be the case if complainants or anyone acting on their behalf:

- make repeated demands for action or information that would impact substantially and unreasonably on the Council;
- persistently pursue a complaint when the Complaints Procedure has been fully implemented and exhausted;
- continually change the substance of a complaint, or raise additional issues or seek to prolong contact by continually raising further concerns or questions;
- are unwilling to accept documented evidence as being factual in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to verify when a long period of time has elapsed;
- do not clearly identify the precise issues which they wish to be investigated, despite reasonable efforts to help them specify their concerns;
- continually focus on a trivial matter to an extent that is out of proportion to its significance
- have threatened or used actual physical violence towards employees at any time;
- have, in the course of their contacts with the Community Council, used foul and abusive language or have verbally assaulted or harassed Councillors or employees causing them to feel humiliated, intimidated or distressed;
- repeatedly contact the Council, Councillors or employees with letters of complaint or telephone calls placing unreasonable demands on staff;
- are known to have recorded meetings or face to face/telephone conversations without prior knowledge and consent of other parties involved;
- display unreasonable demands or expectations and fail to accept that these maybe unreasonable.

How the Council will manage unreasonably persistent or vexatious complaints

Where circumstances permit, the Council will give the complainant a warning that, if their behaviour or actions continue, the Council may need to take action or apply restrictions. In all cases where it is decided that someone is unreasonably persistent or vexatious the action the Council takes will be appropriate and proportionate, and may include one or more of the following options:

- requesting contact in a particular form (for example, letters or e-mails only);
- requiring contact to take place with a named officer;
- restricting telephone calls to specified days and times of the week;
- placing time limits on telephone conversations and personal contact;
- banning a complainant from attending some or all of the Council's premises;
- asking a complainant to enter into a written agreement about his/her future contacts with the Council;
- block a person's access from some or all the Council's social media channels.

When making decisions about appropriate action, the interests of the complainant will be balanced against the effects which his/her behaviour or actions are having on employees, other service users and the efficient use of resources. Use of abusive or foul language, threats, intimidation or harassment of employees by complainants is deemed to be unacceptable behaviour.

If a decision is taken to apply the policy the Clerk will write to tell the complainant why his or her behaviour is considered to be unreasonably persistent or vexatious, what action we are taking, and the duration of that action. The Council will also tell the complainant how they can request a review of the decision.

Reviews of decisions to take action or to restrict contact will be taken by the Finance, Governance and Personnel Committee. Where a complainant persists in communicating with the Council about either a complaint that has been completed at all stages of the Complaints Procedure, or a complaint which he or she has decided not to pursue at the next stage, the Council may decide to terminate contact with that complainant. In such cases the complainant will be informed in writing that, if he or she persists in communicating with the Council about the complaint, the Council will not respond further.

The Council will read all correspondence from that complainant, but unless there is fresh evidence that affects a decision on the complaint, the Council will file the correspondence but not reply. The complainant will be reminded of his/her right to approach the Local Government Ombudsman. If the complainant continues to contact the Council by telephone or in person about the original complaint it may be decided to limit communication by one of the methods described above.

Staff will be required to report all verbal and physical assaults to the Clerk or the Chair of Finance, Governance and Personnel as appropriate. Incidents will be investigated and appropriate action taken, including reporting to the police where appropriate.