

**LLANSTEFFAN and LLANYBRI COMMUNITY COUNCIL
CYNGOR CYMUNED LLANSTEFFAN A LLANYBRI**

COMPLAINTS POLICY AND PROCEDURE

File Name	C:\Users\clerk\Documents\Community council Work MPR, AE & RW\Complaints Procedure
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Introduction

Llansteffan and Llanybri Community 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 the Community Council, or are unhappy about an action or lack of action by this Community Council, this Complaints Policy and Procedure sets out how you may complain to the Community Council and how we shall try to resolve your complaint.

When to Use this Procedure

When you express your concerns or complain to us, we will usually respond in the way explained 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, for example, planning applications that are determined by Carmarthenshire County Community Council, 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
Email: wales@ico.org.uk

What is a Complaint?

This Complaints Policy and Procedure applies to complaints about Community Council administration and procedures and may include complaints about how the Clerk (the only employee of Llansteffan and Llanybri Community Council) has dealt with your concerns. Complaints are a result of dissatisfaction with the service provided. An initial request for a service is not a complaint.

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 Community Council or its employee, 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 Community Council.
- The unhelpful attitude of the Community Council Clerk.
- Neglect or delay in answering a query or responding to a request for a service.
- A failure to follow the Community 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.

How To Complain

The Community Council hopes that most problems can be sorted out easily and quickly, often at the time they arise and with the person concerned. If your problem cannot be sorted out in this way and you wish to make a complaint, the Community Council would like you to let it know as soon as possible, ideally within a matter of days or at most a few weeks, because this will enable it to establish what happened more easily. If it is not possible to do that, please let the Community Council have details of your complaint within:

- 6 months of the incident that caused the problem;
- Within 6 months of discovering that you have a problem, provided this is within 12 months of the incident. If 12 months has elapsed before a complaint has been put in about an incident, this may make it more difficult to establish facts.

Complaining On Behalf of Someone Else

Please note that the Community Council will abide by the rules of confidentiality. If you are complaining on behalf of someone else, the Community Council will wish to know that you have their permission to do so. A note signed by the person concerned will be needed, unless they are incapable (because of physical and mental illness) of providing this.

The Complaints Procedure - STAGE 1

Complaints should be addressed to the Clerk to the Community Council in the first instance, however, if the complaint is in respect of the Clerk, then it needs to be addressed to the Chair of the Community Council who will appoint a Community Council member to deal with your complaint. You may ask for an appointment with the Clerk/Community Council member in order to discuss your concerns. The Clerk/Community Council member will explain the complaints procedure to you and will ensure that your concerns are dealt with promptly. It will be a great help if you are as specific as possible about your complaint.

A complaint may be made via the telephone, in person or in writing.

- Once details of your complaint have been noted by the Clerk/Community Council member you will be sent a letter acknowledging receipt of your complaint and advising you to put your complaint in writing, if you have not already done so, although this is not something by law you have to do.
- The Community Council will make every effort to investigate and resolve your complaint within **ten working days of the date when you raised it.**

It is hoped that the majority of complaints are sorted out at this stage.

If you are not satisfied with the way your complaint has been resolved at Stage 1 it will be referred to the Complaints Panel which normally consists of three members of the Community Council.

The Complaints Procedure - STAGE 2

At this stage the Complaints Panel will:

- Establish what happened;
- Make it possible for you to discuss the problem with those concerned, if you would like this;
- After investigation the Complaints Panel will determine and suggest one of the remedies set out below. They will put together a report which will go to full council for consideration/acceptance.

Llansteffan and Llanybri Community Council aims to deal with your complaint satisfactorily within **4 weeks of it going to Stage 2.**

The Complaints Procedure - STAGE 3

If you are not satisfied with the way your complaint has been investigated using the less formal procedures at Stages 1 and 2 then it will be referred to the full Community Council for consideration, deliberation and resolution.

At all stages of the procedure the rules of natural justice will apply. In other words, all parties will be treated fairly and the process will be reasonable, accessible and transparent.

Local Government Ombudsman

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

Tel: 0300 790 0203
e-mail: ask@ombudsman-wales.org.uk

The Public Services Ombudsman for Wales normally requires all complainants to go through all stages of their Community 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 Community Council's Complaints Procedure but also that they can contact the Public Services Ombudsman for further advice using the contact details above.

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

This Complaints Procedure Does Not Apply to:

Complaints between a council employee (the Clerk) and the Community Council as employer or by a former council employee 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 of Local Authorities in Wales.

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 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 Community Council acknowledges that certain complaints can be difficult to resolve and can cause anxiety and distress to complainants, the Clerk and Community Councillors. Whilst the Community 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 Community 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 Community Council are used as effectively as possible and that other service users of the Community 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 Community 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 Community 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 Community Councillors or the Clerk causing them to feel humiliated, intimidated or distressed;
- repeatedly contact the Community Council, Community Councillors or the Clerk with letters of complaint or telephone calls placing unreasonable demands on resources;
- 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 Community Council Will Manage Unreasonably Persistent or Vexatious Complaints

Where circumstances permit, the Community Council will give the complainant a warning that, if the behaviour or actions continue, the Community 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 Community 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 Community Council's meetings;
- asking a complainant to enter into a written agreement about his/her future contacts with the Community Council;
- block a person's access from some or all the Community 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 the Clerk, 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 Community 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 Full Community Council. Where a complainant persists in communicating with the Community 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 Community 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 Community Council about the complaint, the Community Council will not respond further.

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

All verbal and physical assaults on Community Councillors will be reported to the Clerk or the Chair. Incidents will be investigated and appropriate action taken, including reporting to the police where appropriate