

Cabinet

10 June 2015

Corporate Complaints Review



Report of Corporate Management Team

Report of Lorraine O'Donnell, Assistant Chief Executive

Councillor Brian Stephens, Cabinet Portfolio Holder for
Neighbourhoods and Local Partnerships

Purpose of the Report

1. To request Cabinet approval of the revised corporate complaints policy following the Corporate Complaints Review.

Complaints Review

2. The Customer Focus Board commissioned the ACE Programme Office to review the approach to Corporate Complaints to improve the experience of customers when contacting the council as part of the Customer First Strategy.
3. The review showed that 95% of complaints aligned to ten service areas:
 - I. Direct Services
 - II. Revenues and Benefits
 - III. Customer Services
 - IV. Strategic Waste
 - V. Technical Services
 - VI. Planning
 - VII. Housing
 - VIII. Transport
 - IX. Sport & Culture
 - X. Environmental Health & Consumer Protection
4. The review identified areas to streamline the process and improve customer communications.
5. The opportunity was also taken to incorporate feedback from residents who had previously complained.

Proposed Changes

6. Based on the review and guidance published by the Local Government Ombudsman a revised process has been developed. The majority of complaints are received through customer services and the new process has five steps:
 - I. The council is contacted by a customer when they want to make a complaint.
 - II. Customer Services team either resolve the complaint at the first point of contact, or if this is not possible, capture full details of the complaint.

- III. The Complaints Unit would then ensure the complaint is allocated to the correct service area. If the complaint requires more than one service to respond then the Complaints Unit will assess the complaint and determine the next steps.
 - IV. The service area will contact the customer, apologise and clarify the details of the complaint. Then, if needed, they will carry out an investigation, identify solutions and ensure that the customer receives an appropriate response.
 - V. If the customer is still unhappy with the response the Complaints Unit would review the initial response and assess the feasibility of a further investigation. Then if appropriate, they would carry out an investigation before responding again to the customer as a stage 2 response or direct them to the Local Government Ombudsman.
7. Where the complaint is made direct to the service they should deal with this following the process above.
 8. The new process has been tested through a number of pilot studies which showed the benefits of resolving complaints within the services. Over time customer satisfaction rates should increase as a result of the change in approach and the learning from complaints that service areas will obtain.
 9. Performance in relation to complaints continue to be reported to Corporate Issues Overview & Scrutiny Committee and reporting will include additional measures for example customer satisfaction.
 10. The revised policy which is attached in Appendix 2 also includes guidance regarding abusive, unreasonably persistent or vexatious behaviour from customers. A small minority of customers behave in this way, however resolving these complaints can take a considerable amount of time and resources.

Conclusion

11. The review of the corporate complaints process has shown there are improvements that can be made to the current approach which will improve the experience of the customer.
12. The suggested improvements have been tested through a range of pilots that have shown by providing direct contact between the service and the customer this will enable an improved outcome.
13. To support the implementation of the new approach a revised policy for corporate complaints has been developed. This policy now includes a new approach for dealing with abusive, unreasonably persistent or vexatious complaints. This policy provides greater clarity to the customer as to how the council will manage corporate complaints and what they can expect.
14. Following the approval of Cabinet the ACE Programme Office will continue to work with each service group and the Complaints Unit to implement the new approach to improve the customers' experience.

Recommendations

15. It is recommended that Cabinet approve the revised Corporate Complaints Policy that includes a new approach for dealing with abusive, unreasonably persistent or vexatious complaints.

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Appendix 1: Implications

Finance – There are currently no financial implications.

Staffing – No additional resources are envisaged but staff may take on a changing role to ensure an enhanced customer experience and improved service delivery.

Risk – There is a risk that current performance could be negatively affected by the introduction of the new approach but this will be closely monitored throughout the rollout and action taken to address any issues.

Equality and Diversity – A screening of the revised policy has been completed.

Accommodation – There are currently no accommodation implications.

Crime and Disorder – N/A

Human Rights – N/A

Consultation – As part of the review process consultation has been undertaken with customers who had previously complained to the council.

Procurement – There are currently no procurement implications.

Disability Discrimination Act – A screening of the revised policy has been completed and is attached to the report.

Legal Implications – No legal implications although legal advice sought throughout the development of the policy.

Assistant Chief Executive's Office

Policy and Communications

Corporate Complaints Policy

Summary

1. This policy supports the vision of our Customer First Strategy 2014 – 2017 to:

“Deliver customer service that provides value for money, flexibility and choice whilst placing our customers at the heart of everything we do”
2. Service user feedback informs learning and supports service improvement. The policy provides a single approach for handling corporate complaints with an emphasis on getting the most appropriate outcome for service users.
3. Complaints are an important element of service user feedback which is an integral part of service provision. The policy sets out effective ways of capturing, analysing, responding and learning from complaints with a view to being sensitive and responsive to service users and innovative in our approach to improving services.
4. The policy defines the process for managing corporate complaints in order to meet our service user needs without overwhelming individuals, services or service groupings. It provides a consistent approach and is built on the following principles in line with the Local Government Ombudsman (LGO) guidance:-
 - Accessibility
 - Accountability
 - Timeliness
 - Fairness
 - Learning

Purpose

5. The policy sets out the principles and process that should be followed by all staff when they receive corporate complaints from service users to ensure that complaints are handled in a consistent, fair and appropriate manner.
6. It outlines the principles and high level process that should be followed and clarifies what a corporate complaint is.

Scope

7. This policy is for all Durham County Council staff and covers all complaints except:
 - (i) Statutory complaints about Children’s or Adults Social Care Services and Schools, as separate policies and procedures are in place to deal with these. Further information can be provided by the Children and Adults complaints officers.

- (ii) Where there are existing appeals procedures in place for decisions (e.g. decisions on planning applications, applications for housing benefits and homelessness applications). The complaints procedure will only be available to investigate how the application was handled and not the decision.
 - (iii) Complaints against Elected Members as these are dealt with under a separate policy and procedure. Further information is available from the Council’s Monitoring Officer.
 - (iv) All instances involving potential insurance claims. These will be logged and then directed to the council’s legal team.
8. Incorporated within this policy are steps that have been developed to address the behaviour of service users who act in an Abusive, Unreasonably Persistent or Vexatious manner and who place unreasonable demands upon staff and the council.
9. A separate guidance for staff is also available that underpins this policy and ensures there is a consistent approach to handling corporate complaints that is embedded across the council.

Definition and principles

10. A corporate complaint is a verbal or written expression of dissatisfaction about Durham County Council’s service (whether it is provided directly by us or by one of our contractors or partners) that requires a response and is not covered by one of our other feedback mechanisms.
11. Complaints should be handled in such a way that the service user is the focus and not the process itself and it is within this context that the following principles should be applied:

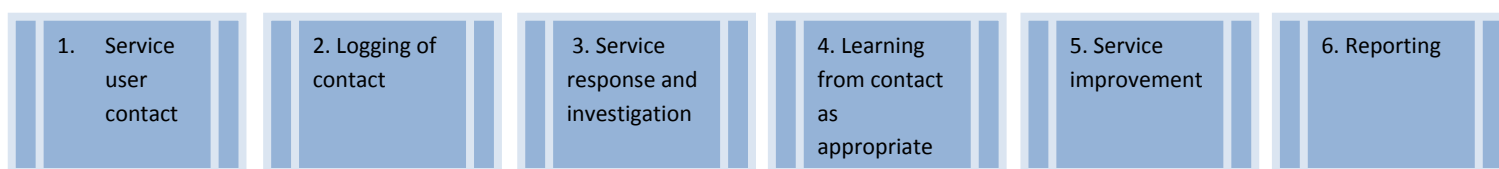
Principle	What we will do
Accessibility	<ul style="list-style-type: none"> • Our complaints policy will be well publicised, accessible and understood by staff. • The guidance and process for feeding back to the council will be simple yet effective and provide a clear and effective process for handling complaints. • Stages in the complaint handling process will be kept to a minimum. • Information on support services will be provided to

Principle	What we will do
	service users.
Accountability	<ul style="list-style-type: none"> • Information will be provided in a clear and open way and honest evidence based explanations provided to give reasons for our decisions. • We will acknowledge our mistakes and put matters right. • We will ensure that service users are informed of their right to complain to the Local Government Ombudsman.
Timeliness	<ul style="list-style-type: none"> • Wherever possible and within the parameters of what is appropriate, investigating officers from relevant service groupings will try and resolve the complaint at first point of contact. • Timescales for responding to the service user will be communicated to the service user, adhered to and monitored. • Complaints will be acknowledged within 24 hours and if it is not possible to resolve the complaint immediately, timescales will be agreed between the investigating officer and the service user.
Fairness	<ul style="list-style-type: none"> • Feedback will be received and dealt with in an open-minded and impartial way. • Service users will be treated fairly and their issues taken seriously. • Responses will be proportionate; one size does not fit all. • Roles and responsibilities will be clear both to the service user and staff. • Service users will be assured that making a complaint will not adversely affect their future dealings with the council.

Principle	What we will do
Learning	<ul style="list-style-type: none"> • Feedback will be used to show how our performance is perceived by service users and how it can be improved. As a council we will have a feedback loop into the service areas. • In order to learn, there will be ongoing monitoring to ensure that timescales and satisfaction levels are met.

Process

12. When the council receives a corporate complaint, a six step process is in place to ensure that the council has a mechanism to record all complaints and subsequent feedback:



Complaint handling arrangements

Service user contact:

13. The initial contact with the service user is vital as it gives the service user a window into how the council operates and the values and behaviours of its staff. If a service user has contacted the council with a complaint, they may already have a negative view of the council.
14. When a service user first contacts the council with a complaint they will be reassured that their issue will be treated fairly and taken seriously.
15. When the contact is received verbally (telephone or face to face) staff will listen to service user issues to ensure they fully understand the problems the service user has experienced.
16. The service user will be allowed to have their say and be given the time to fully explain what has happened. The initial requirement at this stage is to understand the service user's issue and what their expectations are, not to defend the council.
17. Service user issues will be addressed as soon as possible and if immediate action to resolve an issue can be taken at this stage then this will be arranged.
18. If a decision is taken for a complaint to continue to investigation stage, service users will be notified of what will happen next to ensure they understand what the council will do about their complaint.

19. If it has been over 12 months since the subject of the complaint came to the notice of the service user then this will not be considered a complaint. This decision is in accordance with recommendations by the Local Government Ombudsman.

Logging of contact:

20. All complaints will be logged in sufficient detail to inform learning and improve services, to enable analysis and allow staff to investigate the service users' issues effectively.
21. Notifications of single service failures will be logged as a service request, such as a missed refuse collection. This information will be used to correct service failures, to understand how much avoidable contact the council has and to ensure that repetition of such failures can be identified, as they may indicate more systemic problems, which if not dealt with will result in a corporate complaint.
22. Service users' details will be treated lawfully and all logs will comply with Data Protection legislation.

Service response and investigation:

23. The council will investigate all complaints in a manner appropriate to resolve them as efficiently as possible and the response will be in proportion to the complexity of the complaint.
24. It is important that the service is afforded an opportunity to put the matter right in the first instance, therefore, when a service receives a complaint to investigate, an in service investigating officer will be assigned the complaint. They will then be responsible for the investigation of the issue and for responding to the service user. If a complaint is made about the conduct of an officer it is essential that an independent officer is assigned to the complaint.
25. The investigating officer will try to make verbal contact with the service user within 24 hours from when they receive the complaint. This contact is to provide assurances to the service user that the council has taken the complaint seriously and is actively doing something about it.
26. During this contact the complaint will be clarified with the service user and if immediate action can be taken to address their issue this will be arranged at this point.
27. If this is not possible, the service user will be informed when the investigation will be complete and when they will receive a response to their complaint. It will also be agreed what format this will be in.

28. If verbal contact cannot be established within 24 hours then a written acknowledgement of the complaint will be provided and the service user informed as to when they will receive a response.
29. As soon as it is reasonably possible after completion of the investigation, and within the timescale agreed with the service user, the council will contact the service user with a formal response which will be approved by their line manager.
30. If the service user is not satisfied with the response from the relevant service then an independent investigation can be carried out by the Corporate Complaints Unit (CCU). However if the CCU believes there is no value in an independent investigation the service user will be advised to contact the Local Government Ombudsmen to take the matter further.

Learning from contact:

31. When investigating the complaint, consideration must be made for what potential actions could be taken to prevent a similar complaint from occurring again. If action(s) are identified before formally responding to the complaint they will be included in any response.
32. All learning and actions will be logged and monitored through the CRM to assess their effectiveness and will be reviewed to understand their impact on the service and their users.
33. In addition to identifying learning from individual complaints, trends will be assessed by each service to proactively identify patterns and investigate potential causes. This will be done in conjunction with other service improvement activity to ensure a holistic approach is taken to service improvement.

Service improvement:

34. Any service improvements identified will be recorded in the CRM to help inform future service delivery ensuring continuous improvement across all service groupings.

Reporting:

35. Learning from complaints offers the council a holistic view of service users' perceptions. All learning will be reported and monitored through the council's performance management framework.
36. Timescales will be monitored and reported with comparison to the delivery dates agreed with the service user.

37. In line with the council's service standards customer satisfaction with the process will be monitored and reported.

Independent mediation

38. Where very complex issues are involved between two parties where one is the council, it can sometimes be advisable to seek independent mediation in order to resolve the complaint in the best interests of both parties.
39. Advice and guidance will be sought from the Head of Legal Services before entering into agreements for independent mediation.
40. Dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint.
41. When this occurs both statutory and corporate complainants will be subject to the following.
42. We will not normally limit the contact which complainants have with council employees. It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It must be recognised that service users may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.
43. We do not expect staff to tolerate abusive, vexatious or unacceptable persistent behaviour by complainants or any service users. Where a person's behaviour threatens the immediate safety and welfare of staff, a decision will be taken to place that person on the council's Potentially Violent Persons Register. Abusive, vexatious or unacceptable persistent behaviour is defined as behaviour which is abusive, offensive, threatening or includes physical assault. The following apply to all of the access channels including: telephone, face to face, email, web form and social media.
- Using abusive or foul language
 - Multiple contact to the service
 - Physical assault
44. Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.

45. Even where an applicant displays abusive, vexatious or unacceptable persistent behaviour they can still make requests for information. These will be assessed according to the relevant access to information legislation. There are grounds within the Freedom of Information Act to declare a request as vexatious. However, this is a separate process managed by the Information Management Team in consultation with Legal Services.
46. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent. The principles outlined in paragraph 11 must be applied.

Abusive, unreasonably persistent and/or vexatious definitions

47. We define abusive, vexatious or unreasonably persistent complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder our consideration of their or other people's complaints. The description 'abusive', 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant. Once complainants have exhausted the councils complaints procedure they can pursue their complaint with the Local Government or Housing Ombudsman, or through legal challenge.
48. Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.
49. Features of an abusive, unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, one single feature on its own does not necessarily mean the person will be considered as being in this category)

An abusive, unreasonably persistent and/or vexatious complainant may:

- have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious)
- refuse to specify the grounds of a complaint despite offers of assistance
- refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (e.g. parking ticket and planning appeals; policy decisions)
- refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about a

private car park, or something that is the responsibility of another organisation)

- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint)
- make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced
- make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints
- make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails)
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive language
- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- deny statements he or she made at an earlier stage in the complaint process
- refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- persistently approach the council through different routes about the same issue
- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons
- refuse to accept documented evidence as factual

- complain about or challenge an issue based on a historic (more than a year old) and irreversible decision or incident
- have knowingly recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.

Imposing restrictions

50. We will ensure that the complaint is being, or has been, investigated properly according to the corporate complaints procedure.
51. In the first instance the service manager will consult with the Customer Relations, Policy and Performance Manager prior to issuing a warning to the complainant. The service manager will contact the complainant either in writing, by phone or face to face to explain why this behaviour is causing concern, and ask them to change this behaviour. If a complainant has a disability, reasonable adjustments will be made if necessary. The service manager will explain the actions that the council may take if the behaviour does not change. All telephone or face to face conversations will be carefully documented.
52. If the abusive, vexatious or persistent unacceptable behaviour continues, the Customer Relations, Policy and Performance Manager will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the council in future will be restricted. The Customer Relations, Policy and Performance Manager will make this decision and inform the complainant in writing of what procedures have been put in place and for what period.
53. Any restriction imposed on the complainant's contact with the council will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis. Any entry onto the Potentially Violent Person's Register will be for 12 months.
54. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
- Banning the complainant from making contact by telephone except through a third party e.g. councillor/friend acting on their behalf.
 - Banning the complainant from using some council buildings to access services.

- Banning the complainant from accessing any council building except by appointment agreed by relevant service manager.
- Requiring contact to take place with one nominated single point of contact.
- Restricting telephone calls to specified days / times / duration.
- Requiring any personal contact to take place in the presence of an appropriate witness and/or advising that the conversation will be recorded.
- Letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence) .
- In extreme circumstances, the Council may involve the Police. Where this is the case, the complainant will be advised that this is the course of action that the Council is taking and why. Examples include:
 - Abusive and threatening behaviour
 - Physical abuse
 - Refusal to leave the premises

55. When the decision has been taken to apply this policy to a complainant, the Customer Services, Policy and Performance Manager will contact the complainant in writing (and/or as appropriate) to explain:
- why we have taken the decision,
 - what action we are taking,
 - the duration of that action,
 - the review process of this policy, and
 - the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as an abusive, vexatious/persistent complainant.
56. The Customer Services, Policy and Performance Manager will enclose a copy of this policy in the letter to the complainant.
57. Where a complainant continues to behave in a way which is unacceptable, the Customer Services, Policy & Performance Manager, in consultation with the Head of

Legal Services, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

58. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Customer Services, Policy and Performance Manager after three months and at the end of every subsequent three months within the period during which the policy is to apply. During this period an integrated restorative practice approach will be considered to try and find a positive way forward for all parties involved.
59. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.
60. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action. In those cases the complainant will be put on the Potentially Violent Persons Register for a minimum of 12 months.

New complaints from complainants who are treated as abusive, vexatious or persistent

61. New complaints from people who have come under this policy will be treated on their merits. The Customer Services, Policy & Performance Manager will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.

Referrals to the Local Government Ombudsman

62. Following an independent investigation, if a service user remains dissatisfied with the handling of their complaint by the council they will be advised that they can ask the Local Government Ombudsman to review their case.
63. In some cases, relations between councils and abusive, unreasonably persistent or vexatious complainants break down completely while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there may be little purpose in following all the stages of the complaints procedure; where this occurs the Ombudsman may be prepared to consider a complaint before the Council’s own procedure has run its course.

Equality and diversity

64. Equality is at the heart of everything the council does to treat people fairly with respect and dignity. The policy complies with legal requirements in relation to age, disability, gender, pregnancy and maternity, marriage and civil partnership, gender reassignment, race, religion or belief and sexual orientation. Reasonable

adjustments will be made for people with disabilities. Complaint leaflets will be available in alternative formats and languages on request.

Record keeping and data protection

65. Keeping clear and accurate records of complaints is important and these will be retained for a period of two years for complaints and six years if the Local Government Ombudsman is involved.
66. When storing information, the council's data protection policy will be followed which incorporates the storing, managing, and use of the records created as a result of the policy. The policy can be accessed at:
[http://content.durham.gov.uk/PDFRepository/Durham County Council Data Protection Policy.pdf](http://content.durham.gov.uk/PDFRepository/Durham_County_Council_Data_Protection_Policy.pdf)

Training for staff

67. All officers who deal with complaints on behalf of the council will be given training on the implementation of this policy. In addition all staff will be provided with training in relation to the guidance manual and associated policies that underpin the delivery of the complaints process.

Roles and Responsibilities

Customer Services:

68. Customer Services are most likely to be the people who will be contacted initially by service users. They will be responsible for providing the service user with assurance the council will treat them fairly and they will be taken seriously.
69. They will also be responsible for making sure the details of the service user's complaint are complete, accurate and understandable.

Service/Strategic Managers

70. Service Managers are accountable for the delivery of the Corporate Complaints process in their service.
71. Service managers must ensure appropriate arrangements are in place to manage complaints in their service and that their staff have the skills, knowledge and authority to deal with complaints.
72. Service managers can request training when required.
73. They must also ensure arrangements are in place to assess and analyse complaints to ensure service improvements can be identified and implemented.

Investigating Officers

74. An investigating officer is responsible for recording the process and outcome of the complaint.

75. If a complaint cannot be resolved at first point of contact the complaint will be assigned to an investigating officer within the relevant service who will investigate the complaint to establish the facts and identify issues/resolutions without bias or prejudice.
76. The investigating officer will provide effective communication to the service user and ensure they fully understand the outcome of the complaint and the reasons for the outcome.

Corporate Complaints Unit

77. The Corporate Complaints Unit is responsible for the effective delivery of the corporate complaints process including performance monitoring and reporting.
78. When a complaint covers more than one service area the Corporate Complaints Unit are responsible for the coordination of responses from services to ensure a single response is provided by the council.
79. They will provide support, advice and training to staff on managing complaints and will ensure each service has effective arrangements in place.
80. They will provide an independent review following a service investigation should the service user request it and the Complaints Unit deem it appropriate to do so.

Review

81. The Corporate Complaints Unit will review the policy by April 2016.