

## **CORPORATE PROCEDURE FOR HANDLING COMMENTS, COMPLIMENTS AND COMPLAINTS**

### **1. INTRODUCTION**

1.1 The corporate procedure is primarily concerned with the investigation and resolution of complaints made by customers of the Council's services. It also makes provision for the recording and subsequent response to other types of representation made to the Council. It is an integral element of maintaining and improving the quality of services provided by the Council and provides a valuable mechanism for listening to customers' concerns.

1.2 The procedure will apply to all Departments and service areas. However, certain types of complaint must be dealt with according to statutory procedures that will supplement the standard procedure. Departments concerned will implement additional procedures to give effect to these statutory requirements.

1.3 The procedure will in no way detract from the normal communication mechanisms between residents and Ward Councillors. Indeed, it will help Members channel complaints and comments on services so that they receive a quick and effective response.

1.4 These guidance notes detail how officers will implement the Borough Council's Corporate Complaints procedure and are effective from 1st April 2005.

### **2. SCOPE OF THE COMPLAINTS PROCEDURE**

#### **2.1 Complaints**

2.1.1 A complaint is 'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Council or its staff affecting an individual customer or group of customers'.

2.1.2 A 'customer' is any person who is in receipt of or seeking a service or regulatory function from the Council.

2.1.3 A complaint may concern the failure of the Council to achieve published or implied service standards but not a service standard itself, Council or Government policy or statute.

2.1.4 The primary purpose of the complaints procedure is to satisfy customers that their complaint has been properly considered in a timely manner, the Council's actions are explained and, where it is shown to be justified, an apology is given and the complainant is restored to the position prior to the failure of service as appropriate.

#### **2.2 Comments**

Complaints about Council policies will not be subject to the complaints procedure, but will be received as Comments, being acknowledged and recorded and included in a

regular review of complaints received. Suggestions from customers to improve services will be similarly recorded.

## **2.3 Compliments**

Written compliments concerning how the Council or its officers have discharged their responsibilities should also be recorded and included in a regular review of the complaints system.

## **2.4 Relationship with other procedures**

2.4.1 Disciplinary, Criminal, Child Protection or Adult Abuse procedures will take precedence over a complaint where these matters are linked. Complaint investigations will be suspended pending the outcome of such other proceedings.

2.4.2 In such circumstances the Responsible Officer (see section 5.2) will need to determine how the complaint will be resolved at the end of the investigation. Any explanation given to the complainant as to the reasons for the delay will need to respect the confidentiality of staff.

2.4.3 Where there is a risk that the Council's insurance policies may be affected, the Responsible Officer should obtain the views of the Borough Solicitor prior to responding to the complainant at the conclusion of the investigation. Similarly, the Borough Solicitor should be consulted where the complainant's legal representatives become involved.

## **2.5 Relationship with Members' general duties**

The Complaints procedure complements but does not replace Members' role as constituency representatives. Residents will continue to make representations to the Council via their elected member. Comments and suggestions regarding the existing policies of the Council are properly the concern of Members and will not be treated as matters of complaint. Members will wish to advise constituents how they should access the complaints procedure and this is discussed further at Section 9.

## **3. ACCESSING THE COMPLAINTS PROCEDURE**

3.1 The Council will only accept complaints from customers or from an agreed advocate acting on their behalf. Anonymous complaints will not normally be dealt with through the complaints procedure.

3.2 Complaints from members of the public about other citizens (e.g. occupying Council tenancies or looked after by the Council) will not normally be subject to the complaints procedure, but may involve the Council in action against any individuals in breach of tenancy or other agreements with the Council.

3.3 A complaint may be made verbally, either by telephone or in person, electronically or in writing. If in writing, the Council's complaints form may be used either for the initial (informal) stage or to request a formal complaints investigation. A complaints form and accompanying leaflet will be widely available at all Council offices.

3.4 Where a complaint is made verbally, the officer receiving the complaint should ascertain the nature of the complaint, the service responsible, what the complainant is seeking and a name and contact address. The complainant should be informed which department will deal with their complaint and when they can expect to receive a response. Personal information will be treated confidentially.

3.5 Any complaint which implies financial impropriety by any officer or Member should be referred to the Director of Central Services.

3.6 There are four stages to the procedure:

1. Informal Resolution
2. Formal Resolution
3. Review
4. Referral to the Ombudsman

These stages are described below and summarised in the flow chart attached at Appendix A.

#### **4. INFORMAL RESOLUTION (Stage 1)**

4.1 Attempts should be made to resolve all complaints informally through the involvement of those staff responsible for delivering the service. A response will be provided to the complainant within a maximum of 5 working days of the complaint being made.

4.2 If the complainant is not satisfied with this response, they should be given the opportunity to request the responsible Director to initiate a formal investigation.

#### **5. FORMAL RESOLUTION (Stage 2)**

5.1 Requests for formal investigation will normally be made in writing to the responsible Director, using the Council complaints form. If the form has been used to initiate the complaint at the informal stage a further form need not be completed. However, other routes will be acceptable, for example by letter or in person, to accommodate the needs and preferences of individual customers.

5.2 The Director will appoint a Responsible Officer to manage the investigation. The Responsible Officer will be a senior manager within the department. The Responsible Officer may appoint an Investigating Officer who is independent of the matter of complaint. Directors may wish to nominate a 'panel' of Officers who will perform the respective role of Responsible and Investigating Officer when required. Where a formal investigation will concern two or more Departments, it should be managed by one Responsible Officer, normally from the Department receiving the request for the investigation.

5.3 In both statutory and non statutory complaints, the complainant should receive an acknowledgement which explains how the investigation will be undertaken and by whom, within a maximum of 5 working days of the request for a formal investigation.

5.4 The aim of the investigation should be to establish the circumstances and to restore the complainant to the situation prior to the failure of service as appropriate. The Investigating Officer may wish to interview the complainant and members of staff

involved. The Responsible Officer will make a written response to a formal complaint within a maximum of 15 working days of the request for a formal investigation. If this is not possible, the complainant should receive an explanation for this delay and be informed when they can expect a response.

5 In the case of statutory complaints, statutory requirements including response timescales will replace those of the Council procedure.

## **6. REVIEW (Stage 3)**

If the complainant remains dissatisfied with the outcome of the formal investigation and wishes to pursue the matter further the following will apply:

### **6.1 Non statutory complaints**

The complainant may request the Chief Executive to review the formal complaint investigation. The Chief Executive may wish to appoint an Investigating Officer, from another department from that subject to the complaint, to assist in this. The Investigating Officer will submit a report to the Chief Executive establishing the facts of the complaint and making recommendations for its resolution. The Chief Executive will decide what action to take and respond to the complainant within a maximum of 15 working days of the request for the review.

### **6.2 Statutory complaints**

Statute may prescribe a review procedure which entails a hearing before an independent review panel. This panel may consist of an independent person(s) and elected members. Where the complainant has the option of such an independent review, the Chief Executive will not undertake a review of the formal investigation.

## **7. REFERRAL TO THE OMBUDSMAN (Stage 4)**

A complainant may request a reference to the Ombudsman at any stage in the Council's procedures. However, they should be advised that the Ombudsman is unlikely to intervene until the Authority's procedures have been exhausted and hence the Ombudsman will normally only become involved if a complaint remains unresolved after the appropriate review procedure. The Borough Solicitor and Head of Administrative Services should be informed by the Responsible Officer when a complaint is to be referred to the Ombudsman.

## **8. UNREASONABLE OR UNREASONABLY PERSISTENT COMPLAINANTS**

Some complainants raise their complaints in an aggressive or abusive manner, this is unacceptable and can cause stress and anxiety to staff handling these complaints, and may amount to an assault, even where no threat of violence or violent action occurs. The Council has developed a policy for dealing with these complainants which is designed to ensure that complaints can be dealt with in a way which protects staff from unreasonable behaviour. This is attached at Appendix B.

Some complainants can demonstrate behaviours which because of the frequency or nature of their contacts with the Council, hinder the Council's consideration of their, or other people's, complaints. The Council has developed a policy for dealing with unreasonably persistent complainants which is attached at Appendix B.

## **9. COMPLAINTS ABOUT MEMBERS OR DIRECTORS**

Complaints against Members or Directors will be referred to the Chief Executive who will process the complaint, the Member or Director being given the opportunity to comment upon the allegation. The Chief Executive will respond to the complainant. Complaints made against the Chief Executive will be referred to the Borough Solicitor and Head of Administrative Services who will determine how the complaint is to be dealt with and provide the response to the complainant.

## **10. INVOLVEMENT OF MEMBERS IN THE PROCEDURE**

10.1 Some complainants will approach a member prior to making a complaint or at any time during the complaints procedure. Members will wish to advise constituents how to access the complaints procedure and may assist them in making a complaint.

10.2 Members should establish whether the constituent is making a complaint or is in fact requesting a service or further information. If the constituent is expressing dissatisfaction with a policy rather than its implementation, the 'complainant' should be advised that the complaints procedure is not applicable in that case. The Member may then wish to draw the matter to the attention of the appropriate Director as a comment or suggestion or advise their constituent to do the same.

10.3 Members may put the complainant in touch with the appropriate service delivery staff to seek informal resolution. Alternatively, the Member may wish to discuss the matter with the appropriate Director to determine how the complaint should be handled.

10.4 Where the Director determines that a formal investigation should be instigated, the appointed Responsible Officer will normally respond to the complainant. Any Member who has raised a complaint on behalf of a complainant will be copied into subsequent correspondence unless the Member requests otherwise.

10.5 Apart from advising constituents how to access the complaints procedures, members should not become involved in responding to statutory (i.e. certain Education or Social Services) complaints.

## **11. RECORDING & REPORTING**

11.1 Departments will maintain records of all complaints and comments made and written compliments received regarding the services they provide. These records will be such as are required to ensure that complaints are dealt with effectively and efficiently to the satisfaction of customers and to provide information to underpin continuing service improvement.

11.2

These records will include:-

Number of comments, compliments & complaints received

Nature of comments, compliments & complaints received

Status of current complaints

Number of known informal complaints and outcome (i.e. complainant satisfied / not satisfied)

Number of formal complaints and outcome  
Number of complaints referred to review and outcome  
Number of complaints referred to Ombudsman and outcome  
Time taken to provide a response to the complainant  
Time taken to acknowledge a formal complaint

11.3 A summary of this information will be required by the Performance Review Unit in preparing a six monthly report to the Performance Review & Contracts Monitoring Sub-Committee which will review the operation of the procedure, highlighting any trends in the pattern of comments, compliments and complaints. This will provide the basis for a public report reviewing comments, compliments and complaints received by the Borough Council. Such summary reports will need to respect the confidentiality of complainants.

## **Appendix B – Policy on unreasonable and unreasonably persistent complainants**

### **Unreasonable Complainants**

1. The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service it does not normally limit the contact complainants have with its offices. However the Council do not expect their staff to tolerate behaviour by complainants which is unacceptable, for example, which is abusive, offensive or threatening, and they will take action to protect staff from that behaviour.
2. When we consider that a complainant's behaviour is unacceptable we will tell them why we find their behaviour unreasonable and we will ask them to change it. If the unacceptable behaviour continues, we will take action to restrict the complainant's contact with our offices.
3. Examples of unreasonable behaviour which may lead to the application of the policy can include: (the list is not exhaustive)
  - regularly shouts and raises his/her voice at those trying to deal with the complaint
  - threats of violence or any act of violence
  - harassment of individual members of staff (including repeated threats to report to professional body or police, defamatory comments to other professionals or bodies, repeated complaints targeting certain members of staff)
  - leans over or physically places the face close to a person trying to deal with the complaint
  - uses abusive or foul language in a manner designed to cause offence or alarm
  - refuses to leave the Council premises when requested to do so
4. A single incident is unlikely to lead to application of the policy, although the authority may take steps to protect staff from further episodes. In the event of a threat of violence or violence the matter should be referred to the police.

### **Unreasonably Persistent Complainants**

5. The Council is committed to dealing with all complaints fairly and impartially and to providing a high quality service to those who make them. As part of this service it does not normally limit the contact complainants have with its offices.
6. However there are a small number of complainants who, because of the frequency of their contact with our offices, hinder our consideration of their, or other people's, complaints. We refer to such complainants as 'unreasonably persistent

complainants' and, exceptionally, we will take action to limit their contact with our offices.

7. Complainants are not unreasonably persistent simply because they pursue their complaint all the way to the ombudsman and are not satisfied with the Council's view of events, a persistent complainant is not necessarily unreasonably persistent.

### **Examples of Actions and Behaviours of Unreasonably Persistent Complainants**

8. The following list is an example of the types of behaviour which may lead to the policy being applied to a complainant (the list is not exhaustive).
  - Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
  - Refusing to co-operate with the complaints investigation process while still wishing their complaint to be resolved.
  - Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
  - Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
  - Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
  - Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
  - Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
  - Electronically recording meetings and conversations without the prior knowledge and consent of the other persons involved.
  - Adopting a 'scattergun' approach: pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the Ombudsman.
  - Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.



- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.

### **The Decision to Apply the Policy**

9. The decision to apply the policy to either unreasonable or unreasonably persistent complainants will be taken at by the relevant Director or where the issues cut across a number of departments, the Assistant Chief Executive (Policy and Performance) in consultation with the Borough Solicitor and will normally follow a prior warning to the complainant. Any restrictions imposed will be appropriate and proportionate.
10. Before making the decision to apply the policy the Director must satisfy him/herself that:-
  - The complaint is being or has been investigated properly;
  - Any decision reached on the complaint is the right one;
  - Communications with the complainant have been adequate; and
  - The complainant is not now providing any significant new information that might affect the authority's view on the complaint.
11. If the Director is satisfied on these point he/she should consider whether further action is necessary prior to taking the decision to designate the complainant as unreasonable or unreasonably persistent.
  - If no meeting has taken place between the complainant and an officer/officers, and provided that the authority knows nothing about the complainant which would make this unadvisable, consider offering the complainant a meeting with an officer of appropriate seniority. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution.
  - If more than one department is being contacted by an unreasonably persistent complainant, consider:
    - setting up a strategy meeting to agree a cross-departmental approach; and
    - designating a key officer to co-ordinate the authority's response(s).
  - If the complainant has special needs, an advocate might be helpful to both parties: consider offering to help the complainant find an independent one.
  - Before applying any restrictions give the complainant a warning that if his/her actions continue the authority may decide to treat him/her as a unreasonably persistent complainant, and explain why.

## **Informing the Complainant**

12. If a decision is made to apply the policy:-

- The complainant will be informed immediately and in writing that the decision has been made to apply the policy. The letter will inform the complainant
- that the decision has been taken and why;
- what it means for his or her contacts with the authority;
- how long any restrictions will last; and
- what the complainant can do to have the decision reviewed.

13. A copy of the policy will also be sent with the letter.

## **Review and Appeal**

14. There will be a right of appeal to the Chief Executive within 14 days of a decision having been taken to apply the policy.

15. If the policy has been applied to a complainant, we will carry out a review and decide if restrictions will continue. The review will be conducted by the Director who took the original decision in consultation with the Borough Solicitor. Following a review the complainant should be informed in writing of the outcome of the review and when the decision to apply the policy will be reviewed again.

16. There will be a right of appeal to the review within 14 days of the decision.

## **Records and Information Sharing**

17. If a decision is made to apply the policy this information will be provided to complaints officers, Directors PAs and all members of the Corporate Managers Network.

18. A list of complainants who have been classified as Unreasonably Persistent will be maintained by the Policy Manager. A record will also be kept of significant decisions made under the policy such as:-

- when a decision is taken not to apply the policy when a member of staff asks for this to be done, or to make an exception to the policy once it has been applied; or
- when a decision is taken not to put a further complaint from such a complainant through its complaints procedure for any reason; or
- when a decision is taken not to respond to further correspondence, make sure any further letters, faxes or emails from the complainant are checked to pick up

any significant new information.

### **Action Available**

19. A decision to apply the policy to a complainant may result in the following action being taken:
  - Placing time limits on telephone conversations and personal contacts.
  - Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
  - Limiting the complainant to one medium of contact (telephone, letter, email etc) and/or 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.
  - Refusing to register and process further complaints about the same matter.
  - Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters, faxes, or emails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence.
20. Where a complainant whose complaint has been dealt with through all stages of our complaints procedure and the case is closed persists in communicating with us about it, we may decide to terminate contact with that complainant. In such cases, we will read all correspondence from that complainant, but unless there is fresh evidence which affects our decision on the complaint we will simply acknowledge it or place it on the file with no acknowledgement.
21. New complaints from people who have come under the unreasonably persistent complainants policy will be treated on their merits and decisions will need to be taken on whether any restrictions which have been applied before are still appropriate and necessary.
22. The Council's Human Resources Policies and other policies will continue to apply, however in circumstances where an unreasonable or unreasonably persistent complainant is entitled to access with the Council under those policies, they may be restricted in the manner described within this policy provided that the steps taken to apply this policy has been operated properly and fairly. A decision in relation to requests for information under either the Data Protection Act 1998 or the Freedom of Information Act 2000 will be dealt with in accordance with legislation and guidance from the Information Commissioner. A decision to apply the policy to a complainant does not render them 'vexatious' within the meaning of s14 Freedom of Information Act 2000 which is governed by guidance issued by the Information Commissioner.

## **Referring unreasonable and unreasonably persistent complainants to the Local Government Ombudsmen**

23. In some cases, relations between authorities and unreasonable and unreasonably persistent complainants break down badly while complaints are under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances there is often little purpose in following through all stages of the council's complaints procedure and where this occurs the Ombudsmen may be prepared to consider complaints before complaints procedures have been exhausted. This is the case even in respect of statutory complaints procedures.
  
24. A complainant who has been designated an unreasonably persistent complainant may make a complaint to the Ombudsman about the way in which he or she has been treated. The Ombudsman is unlikely to be critical of the council's action if it can show that its policy has been operated properly and fairly.