

• Corporate Complaints Procedure

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Version	Date	Description	Change ID
2	February 2005	Dealing with Customer Comments and Complaints: Guidance for Staff	
3	May 2008	Corporate Complaints Procedure	
4	December 2013	incorporation of guidance on unsubstantiated complaints and abusive complainants	
5	September 2016	Incorporation of Code of Practice on the English language required for public sector workers	
6	January 2017	Amendments to job title of lead officer and circumstances when response time at Stage 2 will be extended	
7	September 2018	Amendments to Officer contacts and incorporation of the 30 day window for Stage 2 review	
8	March 2019	Change to response times for Stage 1 and Stage 2 complaint	
9	April 2025	To incorporate the LGO Complaint Handling Code.	

Related Documents

Reference	Title	Tier
	Corporate Complaints Policy	
	Persistent and Prolific Complainants Procedure	

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1. Purpose

- 1.1. This document sets out detailed guidance notes for staff and members on the processes for dealing with complaints and comments from the public, and explains our regulatory obligations. Information can also be obtained from the 'Complaints' leaflet made available to the public, and from the website <https://www.westberks.gov.uk/complaints>
- 1.2. Wording has been taken from Local Government Ombudsman [Complaint Handling Code](#).

2. Applicability

- 2.1. This procedure shall apply to all employees of West Berkshire Council, including elected members, contract, agency and other temporary staff, volunteers and employees of partner organisations working with West Berkshire Council, with exception of schools' staff, and it is the responsibility of managers to ensure that these groups are made aware of this procedure.

3. Roles and Responsibilities

- 3.1. The Service Director for Customer Engagement and Transformation has overall responsibility for ensuring that corporate complaints are managed appropriately in accordance with these agreed standards.
- 3.2. The Service Lead for Customer Engagement and Transformation, along with Customer Services & Complaints Manager are responsible for:
 - Directing and reviewing this standard.
 - Ensuring that there is effective consultation and communication on Complaint related matters in terms of guidance, training and processes.
 - Publishing & Promoting the adoption of this Corporate Complaints standard procedure which is in line with the LGO [Complaint Handling Code](#).
 - Ensuring compliance with published timescales, procedures, working practices.
- 3.3. The Service Directors and Service Leads, or their nominated representative(s), are responsible for the day-to-day management of complaints including ensuring implementation of this standard. Managers should check all responses prior to their transmission to complainants.
- 3.4. Stage 1 complaints should all be logged onto the digitized system before actioning to ensure there is an audit trail for audit reporting and in the event of escalation.
- 3.5. All staff who handle complaints are responsible for familiarizing themselves with and ensuring that they comply with this standard.

4. Regulatory Requirements*

- 4.1. An effective comments and complaints procedure is required to investigate any expressions of dissatisfaction which may have been voiced by residents or customers of The Council and resolve these at an early stage.
- 4.2. In addition, the Council is committed to equal opportunities for everyone and must carefully and thoroughly investigate any complaint of discrimination or harassment

due to any of the 'protected characteristics', as defined by the Equality Act 2010. The protected characteristics are

- Age
- Disability
- Gender re-assignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race
- Religion
- Sex
- Sexual orientation

4.3 Complaints also offer an opportunity to receive valuable feedback on our services and policies so that we can build on our success and put things right where they might have gone wrong.

4.4 However, the process is not a 'blame exercise'. The aim is to identify where problems have occurred and to put things right.

5. The scope of complaints*

5.1. The Council defines a complaint as *"an expression of a dissatisfaction about the standard of service and/or its delivery, lack of action by the council, its staff or those acting on our behalf, council policy or attitude/behaviour of council staff, affecting an individual or group of individuals."*

5.2. If a member of the public is unhappy with the Council for whatever reason then they should be directed to the online form on the website <https://www.westberks.gov.uk/complaints> to register their dissatisfaction.

5.3. A member of the public can also make a complaint in writing, by email or letter. Any complaints received in either of these ways must be entered into the digitised system to ensure and improve audit recording.

5.4 However, not all dissatisfaction is a complaint. *'Effective complaint handling enables individuals to be heard and understood'*. The starting point for this is a shared understanding of what constitutes a service request and what constitutes a complaint. In most cases organisations should be able to put things right through normal service delivery processes.

5.5 A service request is *"a request that the organisation provides or improves a service, fixes a problem or reconsiders a decision"*. Service requests are not complaints but may contain expressions of dissatisfaction. The council should have the opportunity to deal with a service request before a complaint is made. A complaint may be raised when the individual expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. The Council should not stop its efforts to address the service request if the individual complains.

- 5.6 When a complaint is received and has been entered into the digitised system, the service area handling this are then able to determine whether it meets the criteria of a service request rather than a complaint and will be able to record it as such.
- 5.7 Whilst for most matters it will be clear that a complaint is about a Council service, extra care and consideration should be given to the complaint that may be covered by the sub-sections below

5.7.1 – Contracted Services

A number of the Council's services are provided by external contractors. The general procedure is to refer any comments regarding these contracted services directly to the appointed contractor although it should be noted that in a number of circumstances, customers have a right of appeal back to the Council. In some circumstances the complaints are dealt with directly by the council and not the contractor. The exact position will depend on the terms of the contract. If you receive a comment which relates to a service which has been contracted out and you are unsure how to deal with it then please refer to your designated Service Lead/ Director or their nominated representative.

5.7.2 – Complaints made via Elected Members

These are complaints from a resident which are received via a Member of the Council. The complaint is handled in the usual way, but the response is supplied to the complainant and to the Member for information.

5.7.3 – Letters from MPs

Letters from MPs are usually answered by the Chief Executive so a response drafted by the service should be passed to his/her PA for him/her to review and send.

6. Exclusions

- 6.1. Complaints about matters that have an alternative course of redress are usually excluded from the corporate process. These are:
- Decisions taken by the full Council or the Executive
 - Planning applications
 - Licensing applications
 - Insurance claims
 - Homelessness cases
 - Housing Register applications
 - Housing Benefit applications
 - School admissions
 - School exclusions
 - Job applications
 - Social Care complaints
- 6.2. The only exceptions are when the complaint relates to the way in which the process has been handled, to the behaviour of a member of staff, or where there is an issue about discrimination, and in the case of Social Care complaints, because a separate process exists to handle these.

- 6.3. This does not mean the complaint can be ignored, merely that an appropriate process for managing this aspect of the Council's work already exists. It should still be acknowledged, but such acknowledgement should make it clear that the correspondence will not be treated as a complaint – and why this is. If you are unclear what to do you should refer the matter to the appropriate Head of Service or designated complaints officer.

7. Special circumstances within complaints handling

Discrimination and harassment

- 7.1. Complaints regarding discrimination or harassment due to someone having any of the protected characteristics shown in para 4.2 are taken very seriously by the Council and must be investigated carefully and thoroughly, following the procedure for second-stage complaints (see below). Discrimination or harassment may be a hidden reason for a complaint, or it may be one of many issues in a complaint. It is important to remember that the complainant could either be a victim of discrimination or harassment or the person carrying out the discrimination or harassment.
- 7.2. Where it is felt that a crime is being committed that has not been reported to the police (e.g. a racially aggravated or sexual offence), it may be appropriate to encourage the victim of discrimination or harassment to go to the police. If in doubt about whether the offence in question constitutes a crime, the investigating officer should refer the matter to Legal Services.
- 7.3. If the alleged discrimination relates to a personnel matter, then the Head of Human Resources will need to be informed as part of the investigation process. Generally, these issues will be dealt with differently, and senior staff will need to be involved.

Language Fluency Duty

- 7.5. Where a legitimate complaint is made about insufficient proficiency in spoken English against an officer in a customer-facing role, the Corporate Complaints Procedure should be followed as set out in Section 11 below. This will include an assessment of the merits of the complaint against the necessary standard of spoken English required for the role in question. If the complaint is upheld, the Council must consider what steps can be taken to meet the fluency duty. This may include specific training, retraining or assessment, re-deployment or dismissal. The investigation must also take account of the nature of the complaint, the information received from the complainant and the complainant's expectation of an outcome.

Compensation payments

- 7.6. Where the likelihood of compensation could arise, then the Council's Assurance Service should be notified of any potential insurance claims as soon as they are anticipated. The complainant should be informed that their insurance claim must be in writing to the appropriate Service Unit or the Council's Insurance Officer. Complaints which are being treated as insurance claims do not form part of the Complaints Procedure.

Legal matters

- 7.7. Where there are legal matters involved; they should be referred to the Legal Services Team. This will include, for example, cases where it is alleged that the Council or an officer has been negligent, or that the Council has broken the law, or is in breach of contract, and complaints made through solicitors.

Personal conduct

- 7.8 Where it is alleged that an officer has acted in an improper or illegal fashion, or professional competence is called into question, the matter should be dealt with by a senior officer, preferably at Head of Service level. The officer concerned can provide information in respect of the complaint but should not be involved in drafting a response. If the allegations are found to be baseless then the officer against whom they have been brought should be informed at the earliest opportunity and an apology should be sought by the Chief Executive from the complainant.

8. Confidentiality

- 8.1. All complaints must be treated with confidentiality and due regard given to people's privacy. We are not at liberty to discuss a complaint with neighbours or to indicate the source of a complaint in response to an enquiry from another resident. Where complaints are discussed with interested parties (for example, parish councillors or Members of Council) this aspect of confidentiality must be stressed. Contact the Complaints Manager for more information

9. Persistent or Prolific Complainants

- 9.1. Some complainants refuse to accept the Council's response but are not prepared to take their complaint to the Ombudsman. These complainants may become persistent – they will continue to write, often to a number of officers, in respect of a complaint the Council considers resolved.
- 9.2. Some complainants send in a large number of unrelated complaints, often about minor issues or issues which are not within the Council's remit. These complainants are prolific – the issues they raise require disproportionate amounts of staff time to respond, even where the issue is not one the Council can resolve.
- 9.3. A corporate procedure exists for managing correspondence from persistent and/or prolific complainants. This procedure recognises that genuine issues must be resolved but provides processes to manage continuing repetitive correspondence. Such complaints should be discussed with the Complaints Manager in the first instance.

10. Unsubstantiated complaints and abusive complainants

- 10.1. An unsubstantiated complaint is one where the complainant or their representative has offered no evidence to permit the authority to investigate a complaint (for example, they may claim discrimination, but supply nothing which demonstrates how the discrimination has occurred). The authority will not investigate a complaint where the complainant offers no evidence to support their case. The complainant and the officer involved should be notified of any decision not to proceed with an investigation.
- 10.2. The authority reserves the right to refuse to accept phone calls or emails from complainants or representatives who are, or have become, abusive to officers, or who exhibit challenging behaviour, which makes it difficult or impossible for officers to engage with them. Such complainants will be asked to communicate only by

letter or email, and representatives may be asked to cease representation. These steps will be taken by the Council under their right to protect officers in their employment from harassment and abuse.

11. The Corporate Complaints Procedure

11.1. There are three stages to the complaints procedure, the initial stage (Stage 1), the review stage (Stage 2) and the independent review stage, or Local Government and Social Care Ombudsman (Stage 3). The complaint may come from the complainant or from a representative acting on their behalf.

All complaints should be entered into the digital system before being handled.

11.2. Initial Stage (Stage 1)

11.2. This stage is usually managed by the relevant service unit and includes:

- recording the comment/complaint;
- acknowledging receipt of the comment/complaint (where appropriate);
- providing a response and informing the customer of their right to a review

11.2.1. Complaints can be submitted on a form via our website, by letter, or email. The form is a useful template for the information we generally require:

- contact details;
- nature of the complaint – how has the council let them down;
- any harm or loss which has been caused;
- what they want to be done to resolve the complaint;
- who else they have discussed this with at the council;
- If the complaint is about discrimination, substantiating information to support the complaint. See Sections 7.1 to 7.3 for the handling of such complaints.

11.2.2. Complaints may be submitted on behalf of constituents by Members of Council or MPs. If submitted by Members, the member of staff dealing with the complaint can discuss the complaint informally to see what resolution can be reached – a formal response may not be required. Members should refrain from promising a resolution the Council may not be able to provide.

11.2.3. Services should acknowledge complaints which come to them within **5 working days of receipt**. Complaints entered onto the digital system will be provided with an acknowledgment that their complaint has been received to the Council and will be passed to the relevant service area the complaint relates to.

11.2.4. Stage 1 complaints are answered by the service for which the complaint refers and should provide a full response to stage 1 complaints within **10 working days of the complaint being acknowledged**.

The response should address all issues and offer an apology if an error has occurred.

11.2.5. Sometimes it is not possible to provide a response in the timescale of 10 working days from acknowledgement; when this is the case the Service must inform the complainant. Any extension should be no more than 10 working days without good reason, and the reason(s) should be clearly explained to the individual. When an organisation informs an individual about an extension to these timescales, they should be provided with the details of the relevant Ombudsman

11.3. Some complaints contain '*expressions of dissatisfaction*' but may be treated as Service Request rather than entering the complaint process. The definition of a service request is "*a request that the organisation provides or improves a service, fixes a problem or reconsiders a decision*".

11.3.1. The Council should recognise the difference between a **service request** and a **complaint**. This is set out in the complaints policy and should be recorded, monitored and reviewed regularly

11.3.2. The Council should have the opportunity to deal with a service request before a complaint is made. A complaint may be raised when the individual expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing.

11.3.3. The Council should not stop its efforts to address the service request if the individual complains. If a complaint has been received as is the first time that the customer has made us aware of the issue, this should be treated as a Service Request rather than a complaint and the complainant should be advised accordingly. The person handling the complaint should then select the appropriate action on the complaints digital system, this will then provide an audit of those complaints that were handled as Service Requests.

11.4. Stage 2

11.4.1. If all or part of the complaint is not resolved to the individual's satisfaction at stage 1, it should be progressed to stage 2 of the complaints procedure. Stage 2 is the Council's final response.

11.4.2. Requests for stage 2 should be acknowledged and logged at stage 2 of the complaints procedure **within 5 working days** of the escalation request being received. Within the acknowledgement, the council will set out the understanding of any outstanding issues and the outcomes the individual is seeking. If any aspect of the complaint is unclear, the individual should be asked for clarification.

11.4.3. Individuals should not be required to explain their reasons for requesting a stage 2 consideration. The Council should make reasonable

efforts to understand why an individual remains unhappy as part of its stage 2 response.

- 11.4.4. The person considering the complaint at stage 2 should not be the same person that considered the complaint at stage 1.
- 11.4.5. The Council should issue a final response to stage 2 **within 20 working days of the complaint being acknowledged.**
- 11.4.6. The Service handling the complaint should decide whether an extension to this timescale is needed when considering the complexity of the complaint and then inform individuals of the expected timescale for response. Any extension should be **no more** than 20 working days without good reason, and the reason(s) should be clearly explained to the individual.
- 11.4.7. When the Service informs an individual about an extension to these timescales they should be provided with the details of the relevant Ombudsman.
- 11.4.8. The Service should confirm the following in writing to the individual at the completion of stage 2 in clear, plain language:
- the complaint stage;
 - the organisation's understanding of the complaint;
 - the decision on the complaint;
 - the reasons for any decisions made;
 - the details of any remedy offered to put things right;
 - details of any outstanding actions; and
 - details of how to escalate the matter to the Ombudsman if the individual remains dissatisfied.
- 11.4.9. Stage 2 is the Council's final response and should involve all suitable staff members needed to issue such a response. When the Service provides a final response, it must be made clear that if the complainant remains dissatisfied then they have the right to refer their complaint directly to the Local Government and Social Care Ombudsman (LGO) for an independent review. A leaflet on Ombudsman's role or a link to the LGO website should be supplied.
<http://www.lgo.org.uk/>

11.5. Local Government and Social Care Ombudsman (Stage 3)

- 11.5.1. Once the complainant has received a response at Stage 2 they may then refer the complaint to the Local Government and Social Care Ombudsman (LGO) for an independent decision if they are still unhappy with the resolution offered.
- 11.5.2. The Ombudsman looks for maladministration that causes personal injustice – a fault in the way the Council has or has not done something which has created a difficulty personally for the individual. The Ombudsman cannot

question whether a council's decision or action is right or wrong simply because the complainant disagrees with it.

11.5.3. Maladministration can be identified if the council:

- made a mistake.
- took too long to do something.
- did not follow its own rules or the law.
- broke its promises.
- treated the complainant unfairly.
- gave the complainant the wrong information; or
- did not make a decision in the right way (for example, failed to follow the right procedures, did not consider relevant information or wrongly considered irrelevant information).

11.5.4. Injustice can be identified if the council's maladministration meant that:

- The complainant suffered a financial loss.
- the complainant was put to a lot of avoidable expense, trouble or inconvenience or
- suffered avoidable uncertainty or stress.

11.5.5. The Ombudsman might not investigate a complaint if they consider that the injustice is only slight, or if the council has taken or has indicated it is willing to take satisfactory action to resolve the complaint. In addition, the Ombudsman is unlikely to investigate a complaint where:

- It occurred over 12 months ago, and the complainant had not previously written to the Ombudsman or a councillor.
- It is covered by another appeal process such as a tribunal, government minister, or a court claim.
- An appeal has already been made to a tribunal, government minister, or the courts.
- the complaint affects all or most of the people living in the council's area, for example, a complaint that the Council has wasted public money.
- The complaint is about court proceedings including evidence given in court, or the actions and decisions by the council and court staff in these proceedings.
- personnel matter where the complainant is a member of staff employed by the council.
- the internal management of schools and colleges (some aspects of the provision required for SEN statemented children can be considered);
- some commercial or contractual matters with the council

11.5.6. Any queries regarding the role of the Local Government and Social Care Ombudsman should be referred to the Link Officer at the Council.

12. Further information

- 13.1 Copies of the 'Complaint leaflet', 'Your Right to a review- Stage 2 Complaints' and the staff guide 'Corporate Complaints: Guidance for Staff' are available on the complaints page on the website https://www.westberks.gov.uk/media/37232/Your-right-to-a-review-stage-2-complaints/pdf/West_Berkshire_Council_-_Your_right_to_a_review_stage_2_complaints.pdf?m=1743066946877
- 13.2. The Protection of Staff Policy and the Guidance on Managing Violence and Aggression against Staff can be found here: https://intranet/media/46522/WBC-Procedure-and-Guidance-for-Managing-Violence-and-Aggression-against-Staff/doc/WBC_Procedure_and_Guidance_for_Managing_Violence_and_Aggression_against_Staff.doc?m=1576505370583