

## Introduction

The Council welcomes complaints, suggestions and compliments from its customers. The Council realises that things can occasionally go wrong, and people may not be happy with the service they have received.

Complaints are valuable to the Council as they:

- give customers the opportunity to provide feedback on its services
- gives the Council the opportunity to put things right where mistakes have been made
- allows the Council to improve its services and make sure mistakes are not repeated

Complaints received about services relating to social housing will be dealt with in line with the Housing Ombudsman's Complaint Handling Code.

Complaints received about all other Council services will be dealt with in line with the Local Government and Social Care Ombudsman's effective complaint handling for local authorities.

## What is a Complaint?

A complaint is an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Council, its own employees, or those acting on its behalf, affecting an individual resident or group of residents.

A customer may express dissatisfaction because:

- the Council failed to provide a service
- the standards of the service were not acceptable
- the Council provided the service in an unfair or discriminatory manner

## What is not covered by the procedure?

Some complaints are excluded from the council's Corporate complaints procedure including those:

- in areas where other statutory procedures, rights of appeal or legal remedies already exist. For example, many social services complaints are subject to a statutory procedure
- which are being dealt with as insurance claims
- from Councillors unless they are acting on behalf of a member of the public or outside organisation
- about employment matters from members of staff
- about the conduct of Councillors
- about financial impropriety
- about employees where serious misconduct is alleged which will be investigated outside of the corporate complaints process and in conjunction with HR
- that refer to matters over a year old unless the complainant has good reasons why they didn't come forward sooner

- which are reports of anti-social behaviour
- where the complaint has already been fully dealt with through the complaint procedure

### **Making a complaint**

We will accept complaints verbally or in writing, via an advocate or organisation acting on behalf of the complainant and by all our recognised communication channels including website and social media.

### **How our complaints procedure works**

A complaint can be resolved at any time during the following three stages.

#### **Stage 1 -Problem Solving**

When a complaint is made, the service provider will try to deal with the complaint quickly and informally by providing information or taking appropriate action to the satisfaction of the customer.

#### **Stage 2 – Investigation of the Complaint**

If the complaint cannot be resolved immediately the complainant will receive a letter within five working days from receipt of the complaint. This will tell them:

- what stage the complaint is at
- what will be done in response to their complaint
- that their complaint will be dealt with within 20 working days and if this is not possible, why not and a date when a full response will be available
- who to contact about the complaint
- information on how to contact the Housing Ombudsman for advice and support during the complaints process (social housing complaints only)

Following the investigation, the complainant will receive the results in writing from a senior manager or, in the case of social housing complaints, the assigned Investigating Officer. If they are still unhappy, they can request a review of their complaint by the Chief Executive. This must be done within 10 working days of receiving the results.

#### **Stage 3 – Review of the Complaint**

If a complainant is still dissatisfied after stage two, the complaint will be referred to the Chief Executive. The Chief Executive will review both the handling and outcome of the complaint and provide a full response to the complainant within twenty working days. However, this time period may be extended because of the complexity of the complaint.

When the Council has finished considering a complaint it will tell complainants how they can pursue their complaint with the Local Government and Social Care Ombudsman or, in the case of social housing complaints, the Housing Ombudsman.

### **The Local Government and Social Care Ombudsman**

This is an independent service set up by the Government to investigate complaints about Councils. The complainant can refer their complaint at any time during the course of an investigation by the Council. However, it is usually expected that the complainant will exhaust the Council's procedure before involving the Ombudsman.

The Council will fully co-operate with the Ombudsman's investigation and consider any remedies proposed. The Ombudsman will decide whether or not the Council has acted

unfairly or if a complainant has suffered an injustice as a result of maladministration. A report on the Ombudsman's findings will be sent to the Council.

### **The Housing Ombudsman Service**

The Housing Ombudsman Service can assist complainants throughout the life of a complaint. This affords the complainant the opportunity to engage with the Ombudsman's dispute support advisors.

Complainants should be provided with advice, at the point a complaint is acknowledged, regarding their right to access the Housing Ombudsman Service, not only at the point they have exhausted the complaints process.

The Housing Ombudsman will investigate complaints relating to the housing services we provide, such as rent, repairs and estate management.

If a customer wants the Housing Ombudsman to consider their complaint, they must first complete our internal complaints process. Once this is concluded they can either ask a designated person to refer the complaint to the Housing Ombudsman or wait 8 weeks and then contact the Housing Ombudsman themselves.

In Gateshead a designated person can be any MP, or any local Councillor.

### **Anonymous Complaints**

It is helpful if complainants say who they are so that the Council can get in touch with them to clarify issues and give feedback on the outcome of their complaint. However, the Council believes everyone has the right to complain and anonymous complaints will be thoroughly investigated.

### **Data Protection**

Under the terms of the Council's Data Protection Statement:

- the Council will keep personal data safe and secure.
- The Council will not share it with other organisations without consent, unless it is required by law to do so.
- The Council may also use it for the prevention and detection of fraud.

### **Persistent and Vexatious Complaints**

Where a complainant persists in pursuing a complaint, which has no reasonable basis, or when the Council has already taken reasonable action in response to the complaint the Council will exercise its discretion as to when a matter will be regarded as closed and will not be reinvestigated.

### **Redress and Remedies**

Redress, remedy and compensation will be decided by the Service responding to the complaint and will reflect the extent of any and all service failures, and the level of detriment caused to the complainant as a result.

In awarding compensation, the Council will consider whether any statutory payments are due, if any quantifiable losses have been incurred as well as the time and trouble the complainant has been put to and any distress and inconvenience caused.

## **Monitoring and Review**

Reporting arrangements will be in accordance with the Local Government and Social Care Ombudsman's Effective Complaint Handling for local Authorities guidance and the Housing Ombudsman's Complaint Handling Code.

The Council will report back on wider learning and improvements from complaints to residents, managers and employees. Feedback shall be regularly provided to relevant scrutiny panels, committees and boards.

Learning and improvement from complaints will be included in the Resident's Annual Report.

This policy will be reviewed every two years.

## **Learning from Complaints**

A positive complaint handling culture is integral to the effectiveness with which the Council resolves disputes, the quality of the service they provide, the ability to learn and improve, and their relationship with residents.

Accountability and transparency will be embedded in a positive complaint handling culture, with the Council providing feedback to residents on failures in complaint handling and the actions taken to learn and improve from this.

Creating and embedding a culture that values complaints and gives them the appropriate level of priority requires strong leadership and management.

The Council recognises the importance of resident involvement, through the formation of resident panels, consulting with residents on the formulation of the complaints policy and procedure and through including them in panel hearings as part of the dispute resolution process, where appropriate.

The Council will look beyond the circumstances of the individual complaint and consider whether anything needs to be 'put right' in terms of process or systems to the benefit of all residents.

An effective complaints process enables the Council to learn from the issues that arise for residents and to take steps to improve the services it provides and its internal processes.

Any themes or trends will be assessed by senior management to identify any systemic issues, serious risks or areas for improvement for appropriate action.

The Council will proactively use learning from complaints to revise policies and procedures, to train employees and contractors and to improve communication and record-keeping.

The Council recognises the impact that being complained about can have on future service delivery and will ensure that employees are supported and engaged in the complaints process including the learning that can be gained.

## **Equal Opportunities and Human Rights**

The Council recognises and values all the people in Gateshead and is fully committed to supporting the European Convention on Human Rights. To this end:

- complaints will be dealt with impartially, objectively and professionally.
- the Council guarantees that none will receive adverse or discriminatory treatment as a result of making a complaint.
- the Council will maintain confidentiality wherever possible. Normally, the identity of complainants will be known only to those who need to consider the complaint and will not be revealed to any other person or made public by the council. When this isn't possible because of allegations involving third parties or relevant legislation, we will let the complainant know.

The information gained from customer complaints will be used to help highlight and eliminate any discriminatory practices and promote equality of opportunity for everyone who lives in the Borough.

## **Appendix 1**

### **Protocol on the management of unreasonable complainant behaviour**

#### **1 Introduction**

- 1.1 The Council operates the corporate complaints and compliments procedure to make it easier for members of the public to submit compliments and raise issues of concern, ensure that complaints are responded to quickly and in a consistent manner and to enable the Council to learn from the issues raised and amend procedures and practices as necessary.
- 1.2 The Council recognises that there may be times when a member of the public may not be satisfied with the outcomes reached. Should any individual not be satisfied with the Council's conduct in relation to a complaint, an option open to them is to refer a case to either the Local Government and Social Care Ombudsman, or the Housing Ombudsman Service depending upon nature of the complaint.
- 1.3 Most complaints dealt with by the Council are subject to the straightforward three step complaints procedure, but in a small number of cases complainants may pursue their complaints in a way that disrupts the way the complaint is reviewed or disproportionately takes Council officers away from their other duties. Similarly, complainants who have had their complaints resolved by the Council may continue to pursue their complaint, or request outcomes to their case that the Council is unwilling to grant.
- 1.4 The aim of this protocol is to inform complainants about what the Council considers to be unreasonable complainant behaviour, the options available to the Council and the possible consequences to the individual.
- 1.5 The Council's Monitoring Officer will only invoke this protocol after very careful consideration, the circumstances for which must be exceptional. Individuals may have justified complaints but may be pursuing them in an inappropriate way, or they may be intent on pursuing complaints which appear to have no substance, or which have already been investigated and determined. Such complaints may rarely occur, but if a complainant's behaviour adversely affects the Council's ability to do its work, or the work of any of its supporting officers, the Monitoring Officer may decide to restrict the contact that person has with the Council.
- 1.6 If the Council decides to invoke this guidance, the Monitoring Officer will write to the individual concerned to tell them why it is considered that his or her behaviour falls into that category, what action will be taken and the duration of that action.

#### **2 Definition of unreasonable complainant behaviour**

- 2.1 The Council has adopted an equivalent definition to that used by the Local Government and Social Care Ombudsman. The Council considers that unreasonable complainant behaviour occurs where:
  - 2.1.1 there is repeated and obsessive pursuit of a complaint which appears to have no substance or which has been investigated and determined.

- 2.1.2 the contact may be amicable but still place very heavy demands on officer or Councillor time or may be very emotionally charged and distressing for all involved.
- 2.1.3 there is an escalation of behaviour which is unacceptable, for example abusive, offensive, or threatening behaviour.
- 2.2 Examples include the way or frequency that complainants raise their complaint with the Council, or how complainants respond when they are told of a decision of their complaint.

### **3 Considerations to be made before taking action to restrict access**

- 3.1 All complainants have the right to have their complaint considered within the Council's complaints procedure. The Council will ensure that the complaints procedure is exhausted or ended at a point that is appropriate to each case and the complainant notified as such.
- 3.2 The Council will consider and ensure it has an awareness of an individual's circumstances, how and why they feel as they do and what it is that would resolve the matter for them. The Council will ensure that complainants have had a reasonable opportunity to express their views and opinions, that these have been listened to and that appropriate consideration and effort to resolving and explaining the position and the actions of the Council have taken place.
- 3.3 Before deciding whether the protocol should be applied, the Monitoring Officer will consider be satisfied that:
  - 3.3.1 The complaint is being or has been adequately reviewed and any decision reached has been found to be appropriate based on the information presented to the Council at the time.
  - 3.3.2 Communications with the complainant have been adequate and within the Council's policies.
  - 3.3.3 Any decision reached has been reviewed and is found to be appropriate.
  - 3.3.4 The complainant is not providing any significant new information that might affect the Council's view on the complaint.
  - 3.3.5 There is not another, more specific path for the complainant to follow
- 3.4 Some individuals that may be considered to be unreasonable complainants may be behaving this way because of a specific circumstance or difficulty. Where this is indicated the Council will take this into account in determining the reasonableness of the complaint made.

- 3.5 Any restrictive actions that may be taken will be tailored based on the circumstances and behaviour of the individual and their complaint.

#### **4 Possible Actions**

##### 4.1 Actions that could be taken to restrict access and contact:

- 4.1.1 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. If this is by email, it will be automatically forwarded to the named single point of contact;
- 4.1.2 Placing restrictions on the amount of time the Council and their officers will spend reviewing their complaints;
- 4.1.3 Letting the complainant know that the Council will not reply to or acknowledge any further contact from them on the specific topic of that complaint;
- 4.1.4 Refusing to register and process further complaints about the same matter.
- 4.1.5 In some circumstances, the Council may decide that it is appropriate to severely reduce or completely stop responding to a particular complainant.

#### **5 Process for the application of the Guidance Note on the management of unreasonable complainant behaviour**

- 5.1 Where possible, the Council should have made a reasonable attempt to reach a voluntary (informal) arrangement with a complainant before taking formal action to allow the individual time to consider and adjust their behaviour.

##### **First Stage – Notification/Warning**

- 5.3 The Monitoring Officer will review why the complainant's behaviour is causing a concern, giving clearly documented evidence to support this, and outlining how the behaviour needs to change.
- 5.4 The Monitoring Officer will write to the complainant explaining to them the actions that may be taken if their behaviour does not change, along with a copy of this guidance.

##### **Second Stage – Application**

- 5.5 Should the complainant continue to demonstrate unreasonable behaviour, following receipt of the notification, the Monitoring Officer will determine whether to apply the unreasonable complainant protocol and what actions will be taken.



- 5.6 If the Monitoring Officer determines to apply the protocol on the management of unreasonable complainant behaviour, he will write to the complainant explaining to them the actions to be taken. All letters should include:
- 5.6.1 Why this decision has been reached;
  - 5.6.2 What specific action is being taken;
  - 5.6.3 The duration of that action;
  - 5.6.4 The date the decision will be reviewed;
  - 5.6.5 The circumstances that the decision could be reviewed in advance of that date (for example new relevant information).
  - 5.6.6 The right of the complainant to contact the Local Government and Social Care Ombudsman about the fact that they have been treated as an unreasonable complainant.
- 5.7 A log of the decision made and records of contacts with the complainant will be kept. This information will be treated as confidential and only shared with those who may be affected by the decision in order for them to carry out their role.
- 5.8 Key information to be recorded includes:
- 5.9.1 when a decision is taken not to apply the guidance, or
  - 5.9.2 when a decision is taken to make an exception to the guidance once it has been applied, or
  - 5.9.3 when a decision is taken not to put a further complaint from the complainant through the complaints procedure for any reason, and
  - 5.9.4 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.
- 5.10 Any further contact from the complainant, for example on a new issue, will be treated on its merits.

## **6 Who will be informed about restrictions**

- 6.1 All officers and Councillors who have experienced unreasonable complainant behaviour relating to the specific complaint will be informed of the decision to impose contact restrictions.

## **7 Reviewing the decision to restrict access**

- 7.1 When imposing a restriction on access, a specified review date should be given. Once that date has been reached any restrictions should be lifted and relationships returned to normal unless there are continuing grounds to extend the restriction.
- 7.2 The Monitoring Officer will review the restriction at the agreed time. If the decision is made to lift the restriction, the complainant will be informed of that decision. If restriction is to continue, the reasons for the continuation of the restriction will be given to the complainant along with the next review date.

## **8 Referring complainants to the Local Government and Social Care Ombudsman**

8.1 A complainant who is not satisfied with the determinations of the Council may make a complaint to the Ombudsman, who will consider the case. Should they determine that the referral of a complaint warrants further consideration, they will review the process followed by the Monitoring Officer in reaching any such conclusion.

8.2 A complainant who has been designated as unreasonable may make a complaint to the Ombudsman about the way in which they have been treated. The Ombudsman is unlikely to be critical where the Council has acted proportionately and in accordance with its adopted protocols.

## 9 **Harassment and bullying**

9.1 Unreasonable complainant behaviour may amount to bullying or harassment. All Councillors and officers have the right to be treated with respect and dignity in the workplace. Behaviour by third parties that bullies, harasses, or intimidates individuals is unacceptable and will not be tolerated. The Council will take all reasonable steps to prevent such behaviour.