

## Complaints Procedure

**Complaint sent in writing**

Council receives a written complaint from the complainant and the Complaints Officer acknowledges it within 5 working days, explaining that the Head of Service will respond in full.

**First Stage**

Head of Service to send response to complainant within 10 working days. Should longer be needed, the complainant will be informed.

If the complainant does not send a request for further investigation, then the complaint is considered closed.

If the complainant is unhappy with the response, they should write within 28 days of receiving it and the complaint goes to the Second Stage where an independent Assistant Director will investigate.

**Second Stage**

The Complaints Officer will acknowledge the request and inform the complainant which independent Assistant Director is to review the complaint. The Assistant Director will investigate and respond to the complainant within 15 working days. Should longer be needed, the complainant will be informed.

**Final Stage**

Second Stage response is sent by the independent Assistant Director (contact details for the Ombudsman are included in the response).

The Council hopes that the full investigation resolves the complaint.

If the complainant is unhappy with this response, they can refer the complaint to the Local Government Ombudsman.

## **1.0 Introduction**

- 1.1 The Complaints Procedure applies to complaints against any service area where a request has not been resolved to the satisfaction of the complainant. Any complaint concerning an elected Member, which may be in breach of the Members' code of conduct, will be put through the Standards Committee procedure. Similarly, if a complaint involves the conduct of an employee raising disciplinary concerns, it will be handled through the disciplinary route.
- 1.2 The aim of the procedure is to ensure that all complaints are dealt with in a fair, consistent and thorough manner. Where complaints are justified, the Council aims to remedy the situation and, when possible, resolve the issue to the satisfaction of the complainant. It is important that all responses to complainants should be written in a constructive manner, even if the Council cannot resolve the issue concerned.
- 1.3 A complaint (for the purposes of this Complaints Procedure) is an expression of dissatisfaction about the actions, or lack of actions, by the Council or its staff affecting a person or group. Complaints do not cover requests for a service, requests for information or explanation of Council policy, practice or actions taken, or matters for which there is another right of appeal (an appeal within the Council or to an independent inquiry or tribunal) or a legal remedy.
- 1.4 The procedure does not cover the opinion of an officer in the granting or refusal of planning permission, or a decision taken by a Planning Committee on a planning application. The procedure applies to matters relating to planning applications where it is alleged that there has been some failure of the Council's procedures. If the type of complaint is such that it cannot be agreed whether the complaint should be dealt with under the procedure, the Corporate Solicitor to the Council will decide if the procedure should apply. If it is decided that the procedure should not apply, the complainant will be helped with their complaint by the Ombudsman.
- 1.5 We will not consider complaints which relate to matters that are more than 12 months old from the time you were aware, or reasonably could have been aware, of the issue.
- 1.6 The procedure is to cover the Council's relationship with those outside the organisation and will not, therefore, cover complaints from members of staff concerning their employment. These will be dealt with in line with the Council's employment policies and procedures.
- 1.7 The Complaints Officer, for the purpose of this Complaints Procedure, will be the Customer Services Manager who reports to the Assistant Director – Digital and People Services.

- 1.8 The Complaints Officer will keep a register of all complaints received and will enter in the register details of the complaints, results of the findings and actions taken. The Complaints Officer will also produce a Complaints and Compliments Annual Report which is taken to the Scrutiny Committee for Leader, Deputy Leader and Housing and Customer Service.

## **2.0 Making a complaint**

- 2.1 It is important that all complaints are in writing. This can be a letter, either direct to the Complaints Officer or received from a Member of the Council on behalf of a complainant, an e-mail or an on-line form via the Council's website. When requested by the complainant, a complaint may be written out for the complainant by a member of the Council's staff (see 2.3 below).
- 2.2 Where a complaint is initially received orally, the potential complainant will be asked to put the complaint in writing.
- 2.3 Council staff will help a member of the public making the complaint and will write the complaint out for the complainant, if requested to do so. Where possible, the staff member will agree the wording of the complaint with the complainant, before it is submitted.
- 2.4 Where it appears possible to resolve that complaint without the need to take further formal steps, the staff member will try to resolve the complaint to the satisfaction of the complainant. If it is not possible to resolve the complaint at this stage, the action in 2.2 above will be followed.
- 2.5 Once a complaint in writing is received via the website or by letter by the Complaints Officer, it will be acknowledged and then referred to the Head of Service responsible for the service. The Head of Service will be asked to fully investigate the complaint and write a report.
- 2.6 If a complaint is sent direct to the Head of Service for the service area concerned, they will send a copy of the complaint to the Complaints Officer **within one working day of receipt**, so that the Complaints Officer can acknowledge the complaint.

## **3.0 Actions to be taken following registration of a complaint**

- 3.1 Upon receipt of the complaint, the Complaints Officer will acknowledge in writing that it has been registered and is being investigated. An acknowledgement will normally be given no later than **five working days** following receipt of the complaint. If the complaint is received via a Member of the Council, a copy of the letter of acknowledgement should also be sent to that Councillor.

- 3.2 The Head of Service should make sure the investigation is completed and a report written **within ten working days** of when the complaint is made. When it appears that it will not be possible to complete the investigation within ten days, either the Complaints Officer or Head of Service will write to the complainant explaining the reasons for the delay, giving a target date for completion. Where the complaint relates to the Freedom of Information Act, the Head of Service will liaise with the Corporate Solicitor to the Council.
- 3.3 From the information obtained, the Head of Service will decide if the complaint was justified and what action to take. In special cases, they may carry out further investigation, if necessary. If this will delay the result of the investigation being given, the complainant and Complaints Officer will be informed, in writing.
- 3.4 Where officers have tried to resolve the complaint, these actions will be clearly explained in the written response to the complainant. Similarly, if any steps have been taken to change Council procedures or to improve service delivery as a result of the complaint, these shall be clearly explained too.
- 3.5 The letter sent to the complainant at this stage will include details about a right of appeal to an independent Assistant Director (not responsible for the service concerned) to further investigate the matter. The complainant will be advised that if they wish to appeal that they should contact the Complaints Officer who will send the complaint to an independent Assistant Director. Cases will be sent to Assistant Directors on a rotational basis.

#### **4.0 Appealing**

- 4.1 Once an appeal is received, the independent Assistant Director who the complaint has been allocated to, will ask the Head of Service involved to supply a copy of the report on the complaint together with any other important information. At this time, the Complaints Officer will send an acknowledgement of the appeal to the complainant.
- 4.2 The Assistant Director will consider the information and decide if further investigation is needed. If the Assistant Director decides that further investigation is needed, they may require such further steps to be taken.
- 4.3 The Assistant Director will complete investigations within **fifteen working days** and will write to the complainant to tell them if the appeal has been successful and if any further steps are to be taken.

4.4 The letter from the Assistant Director will include information about a right of appeal giving details of how to make a complaint to the Local Government Ombudsman. If it is a Freedom of Information Act complaint, then the complaint needs to be made with the Information Commissioner. A copy of the letter will be sent to the Complaints Officer, the Head of Service Leader concerned and to the Assistant Director responsible for the service.

## **5.0 Actions to be taken at the end of the complaints process**

5.1 The complaints process ends when either the appeal to an independent Assistant Director has been completed or, in the case of a complaint that does not proceed to appeal, when the complainant states that they do not want the complaint to go any further. If no further contact is received **after 28 days** from the date of the letter referred to in paragraph 4.3 being sent, then the complaint is ended, considered resolved.

5.2 Management Team will receive a quarterly report on complaints and compliments as well as an annual report ahead of the Scrutiny Committee for Leader, Deputy Leader and Housing and Customer Service. The Complaints and Compliments Annual Report will contain details of service improvements made as a result of complaints dealt with.

5.3 The Report will invite the Scrutiny Committee for Leader, Deputy Leader and Housing and Customer Service to call for further reports on any specific areas of concern and to make any recommendations about service improvements they consider appropriate.

## **6.0 Habitual or vexatious complainants**

6.1 This outlines cases where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be 'habitual or vexatious' and ways of responding to these situations. The term 'habitual' means 'done repeatedly or as a habit'. The term 'vexatious' means 'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'. This procedure tries to help in these kinds of cases.

6.2 Habitual or vexatious complainants can be a problem for Council staff and members. The difficulty in handling such complainants is that they are time-consuming and wasteful of resources in terms of Officer and Member time using resources that could be spent on Council priorities. While the Council tries to respond with patience and sympathy to the needs of all complainants, there are times when there is nothing further which can reasonably be done.

6.3 The following definition of habitual or vexatious complainants will be used: The repeated and/or obsessive pursuit of:

- (i) unreasonable complaints and/or unrealistic outcomes; and/or
- (ii) reasonable complaints in an unreasonable manner.

Before considering using this, the Corporate Solicitor to the Council will send a summary of this procedure to the complainant.

6.4 Where complaints continue and have been identified as habitual or vexatious, the Corporate Solicitor to the Council (following discussions with the relevant Head of Service) will take a report to the Management Team for agreement to treat the complainant as a habitual or vexatious complainant and for an appropriate course of action to be taken.

6.5 The Corporate Solicitor to the Council will inform complainants, in writing, of the reasons why their complaint has been treated as habitual or vexatious and the action that will be taken. The Corporate Solicitor to the Council will also notify the Mid Sussex District Council Ward Member that a resident has been termed as a habitual or vexatious complainant.

6.6 Once a complainant has been termed as habitual or vexatious, their status will be kept under review **after one year** and monitored by the Corporate Solicitor to the Council with reports being taken to the Management Team, as required. If a complainant then shows a more reasonable approach, then their status will be reviewed.

6.7 Complainants (and/or anyone acting on their behalf) may be termed as habitual or vexatious if previous or current contact with them shows that they meet **one** of the following :

Where complainants:

- Continue with a complaint where the Council's complaints process has been fully and properly used and exhausted.
- Continue changing the substance of a complaint or continually raise new issues or seek to prolong contact by continually raising further concerns or questions while the complaint is being addressed. (Care must be taken, however, not to ignore new issues, which are very different from the original complaint, as they need to be addressed as separate complaints.)
- Are repeatedly unwilling to accept documented evidence given as being factual or deny receipt of an adequate response in spite of correspondence specifically answering their questions or do not accept that facts can sometimes be difficult to prove when a long period of time has passed.
- Repeatedly do not clearly identify the exact issues which they wish to be investigated, despite reasonable efforts of the Council to help them specify their concerns, and/or where the concerns identified are not within the remit of the Council to investigate.

Regularly focus on a trivial matter, to an extent that is out of proportion to its significance, and continue to focus on this point.

- It is recognised that determining what is a trivial matter can be subjective and careful judgement will be used in applying this criteria.
- Have threatened or used physical violence towards employees at any time. This will, in itself, cause personal contact with the complainant and/or their representative to be stopped and the complaint will only be continued through written communication. The Council has decided that any complainant who threatens or uses actual physical violence towards employees will be regarded as a vexatious complainant. The complainant will be informed of this in writing together with notification of how future contact with the Council is to be made.
- Have, in the course of addressing a registered complaint, had an excessive number of contacts with the Council – placing unreasonable demands on employees. A contact may be in person, by telephone, letter, email or fax. Judgement will be used to decide what is excessive contact taking into account the specific circumstances of each individual case.
- Have harassed or been verbally abusive on more than one occasion towards employees dealing with the complaint. Employees recognise that complainants may sometimes act out of character in times of stress, anxiety or distress and will make reasonable allowances for this. (Some complainants may have a mental health disability and there is a need to be sensitive in circumstances of that kind.)
- Are known to have recorded meetings or face-to-face/telephone conversations without the prior knowledge and consent of other parties involved.
- Make unreasonable demands on the Council and its employees, failing to accept that these may be unreasonable, for example, insist on responses to complaints or enquiries being provided more urgently than is reasonable or within the Council's complaints procedure or normal recognised practice.
- Make unreasonable complaints which put a significant pressure on the resources of the Council and where the complaint:
  - clearly does not have any serious purpose or value; or
  - is designed to cause disruption or annoyance; or
  - has the effect of harassing the public authority; or
  - can otherwise fairly be characterised as obsessive or manifestly unreasonable.

Make many complaints which ignore the replies Council Officers have supplied.

6.8 Options for dealing with habitual or vexatious complainants can be used on their own or together depending on the case and whether or not the complaint process is ongoing or completed.

- A letter to the complainant setting out responsibilities for the parties involved if the Council is to continue processing the complaint. If terms are ignored, consideration will then be given to using other action as shown below.
- Decline contact with the complainant, either in person, by telephone, by letter, by email or any mix of these, provided that one form of contact is kept up. This may also mean that only one named officer will be nominated to keep contact (and a named deputy in their absence). The complainant will be notified of this person.
- Notify the complainant, in writing, that the Council has responded fully to the points raised and has tried to resolve the complaint but there is nothing more to add and continuing contact on the matter will serve no useful purpose. The complainant will also be informed that the correspondence is at an end, advising the complainant that they are being treated as a habitual or vexatious complainant and the Council does not intend to engage in further correspondence dealing with the complaint.
- Inform the complainant that in special cases the Council will seek legal advice on habitual or vexatious complaints.
- Temporarily suspend all contact with the complainant, in connection with the issues relating to the complaint being considered habitual or vexatious, while seeking advice or guidance from the Corporate Solicitor to the Council or other relevant agencies, such as the Local Government Ombudsman or External Auditor.

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