

Policy & Procedure for Corporate Complaints & Representations

Contact the Council:

Write to: Complaints
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Telephone: (0191) 520 5555
Email: complaints@sunderland.gov.uk

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Complaints & Representations

Introduction

Customers communicate their views on Council services in several ways. This includes comments and compliments made to staff in person, and through letters and emails. There are also occasions when customers feel that the service, they have received was not of the high standard expected and wish to complain.

This procedure sets out how we will investigate, monitor and use compliments, complaints and comments. It incorporates best practice identified through experience of handling complaints about Council services and takes account of guidance on good practice produced by the Local Government and Social Care Ombudsman. The Council has made a commitment to respond to customer feedback, including complaints, positively, and to provide a high standard of response to complainants, no matter what their complaint or where in the Council they report it. We view complaints, as well as positive feedback, compliments and comments, as a means of identifying how we can promote customer satisfaction and improve our services.

Aims and outcomes

The procedure aims to:

- Encourage all forms of constructive feedback
- Provide a customer focussed process through
 - Provision of a fair, effective, transparent, helpful, timely and structured procedure
 - Use of consistent procedures across the Council
 - Sending a response within a reasonable timescale
 - Being respectful of confidentiality where possible
- Offer redress where appropriate in accordance with guidance from the Ombudsman
- Increase customer satisfaction and confidence in Council services
- Encourage best practice by staff through the use of feedback and monitoring
- Maintain excellent performance and identify where and how we can improve the services offered.

Section 1: The Scope of the Procedure

Our intention is to allow access to this procedure to anyone who wishes to make representations or complaints about the actions or decisions, of the Council; and to allow any other person with sufficient interest to act on behalf of the individual concerned.

What is a Complaint?

The Council has based this on the Ombudsman's definition of a complaint, i.e. *"An expression of dissatisfaction by one or more members of the public about the Council's action or lack of action or about the standard of a service, whether the action was taken, or the service provided by the Council itself or a person or body acting on behalf of the Council that requires a response"*.

What is a Representation?

A representation is a compliment or comment about Council activity that is not a complaint and provides useful feedback on what people value about what the Council does. We use compliments and comments to let individual staff know when they have been particularly effective in their day to day work, to know that they are valued, to make sure councillors are aware of what people appreciate, and help services focus on continuing to do more of what people value most.

Responsibility for the Procedure

There are several Directorates of the Council, each responsible for dealing with particular areas of policy or administration as described in part seven of the Council's Constitution.

All staff have responsibilities to a greater or lesser extent under the procedure, as any of them might receive a complaint or be asked for information. Service area managers have further responsibilities, as they are likely to be involved in initial attempts to resolve complaints and in referring them on at appropriate points. Heads of Service are responsible for ensuring effective investigation of complaints in their service area and delivery of the Council's requirements for service improvement identified from complaints and feedback. Both Directors and Heads of Service are responsible for ensuring learning from complaints and feedback is acted on promptly and effectively.

Staff also have a responsibility to ensure that customers are made aware of the complaints procedure and that they are given information in an appropriate format. Information on the procedure is also available on the Council's website.

Responsibility for the management of the procedure lies with the Assistant Director of Law and Governance. Day to day responsibility for the operation of the procedure lies with the Complaints & Feedback Team.

Who Can Use the Procedure?

A complainant is defined for the purposes of this procedure as a person who can claim that they are affected by a decision and who can claim to have suffered personal injustice, rather than simply be aggrieved either by a decision, the standard of service; or a lack of action. The Council is happy to accept complaints from third parties. A third party is any person or organisation acting on behalf of or making enquiries for the complainant.

Representatives often include: advice organisations; professionals such as social workers, community psychiatric nurses or doctors, solicitors; family members or friends; MPs and elected members of the Council; and those with Power of Attorney are legally empowered to act on behalf of the complainant.

Where a third party is helping a complainant with a particular complaint, the complainant's written authority (or copy of Power of Attorney) for the Council to communicate with or through the representative will be obtained and held in the complaint record. At the complainant's option, either the complainant and or their representative will be kept informed of progress on the complaint.

MPs and elected members, who have stated in writing that they are acting for the complainant, will be assumed to have consent to act. In these cases, information can be disclosed in response to their enquiries in respect of their constituents without the need for the complainant's written authority.

When does this procedure not apply?

There are very specific areas where concerns raised by the customer should be addressed through an alternative procedure. Complainants should be advised of the procedure that their complaint will follow. Separate arrangements have been established for monitoring these issues, as they can provide useful intelligence on customers' views of the Council and help pinpoint areas where improvements should be made.

The Council receives some complaints or other comments about matters which it generally would not be appropriate to address within this procedure. For example, a customer may make a request for or submit a complaint regarding a particular service provision, and this would not necessarily be considered as a formal complaint. An example would be the repair of a streetlight. Such a concern can easily be resolved by providing the service.

A formal complaint would result if the lack of service became persistent. For this reason, the Council will keep a record of all such issues and use these to identify trends and areas for improvement. Complainants can ask the Local Government and Social Care Ombudsman to investigate further if they remain dissatisfied, although the Ombudsman will generally not do this until the Council has had an initial opportunity to investigate.

While the Ombudsman has confirmed that he is primarily concerned with process, he has reminded councils that they have a wider brief and can consider whether a decision was good, poor or indifferent and that to do so could provide valuable opportunities for reflection, learning and improvement. This is the approach we will take in all of our investigations into complaints.

Complaints about Data Protection

Under the Data Protection Act, an individual is entitled to request an assessment from the Information Commissioner's Office ("the ICO") as to whether the Council has complied with the requirements of the Act. However, the Council is committed to trying to resolve all complaints at an early stage and encourages individuals to raise any concerns with the Council before contacting the ICO.

Whilst there is no statutory requirement to investigate complaints about data protection issues other than for the purpose of communicating a personal data breach to the Information Commissioner and, in specified circumstances, the data subject(s), the Council is committed to trying to resolve all such complaints.

Complaints about how the Council has processed personal data, under the Data Protection Act 2018, will be handled within the service area responsible for the action or decision that gave rise to the complaint. For these complaints (about data protection) stages one and two of the procedure will be merged into one single investigation/review of the Council's actions.

The complaint will be investigated by an officer appointed by the relevant Head of Service. The Head of Service will review the findings of the investigation, taking appropriate advice and support from the Council's Data Protection Officer, and will provide a response/ adjudication to the complainant on behalf of the Council.

There is no further right of appeal to the Council following the investigation and response. An individual is entitled under the Act to request an assessment from the ICO as mentioned above, or to make a court application. Further details can be found on the Information Commissioner's website.

This procedure does not apply to complaints about the following:

- **Councillors:** All Councillors have to keep to a Code of Conduct to ensure high standards are maintained. If a complaint reveals that a potential breach of this code has taken place, it will be referred to the Council's Monitoring Officer who will arrange for its consideration and response.
- **Employment Issues:** Employment issues (including those related to recruitment and selection) cannot be dealt with under this procedure and will be routed accordingly by the Complaints and Feedback Team.
- **Financial Impropriety:** Complaints about improper use of the Council's finances will be referred in the first instance to the Executive Director of Corporate Services, who may arrange for the matter to be investigated by the Council's Internal Audit Section, and, if necessary, also liaise with the Council's external auditor.

- **Misconduct of Council Staff:** Complaints of Council staff misconduct will be dealt with under the staff disciplinary procedure. The complaint will be investigated, but for confidentiality reasons, the details of disciplinary proceedings will not be shared with the complainant.
- **Partner Organisations:** Our partner organisations will be requested to maintain an appropriate procedure for dealing with complaints about their actions.
- **Policy:** Complaints about Council policy are brought to the attention of senior management by the Complaints and Feedback Team. Generally, any response will be limited to an explanation of the policy, possibly to include advice on how policies are reviewed and how any comments can be considered.
- **Adult or Children's Social Care:** Certain complaints about social care, **must** be handled differently, and will be routed accordingly by the Complaints and Feedback Team.
- **School Complaints:** Certain complaints about schools **must** be handled differently and will be routed accordingly by the Complaints and Feedback Team.
- **Gentoo:** Gentoo has its own complaints procedure and copies are available from each area office.
- **Unpopular Decisions:** Decisions that customers dislike, but which were made correctly, will be explained but not investigated.
- **Complaints made anonymously:** Complaints received anonymously will be recorded and considered, but action may be limited if further information is required to ensure a full and fair investigation.
- **Where there are other rights of appeal/legal action available:** Complaints involving legal proceedings or cases where customers have a separate right of appeal may also fall outside of this procedure.

Time Limit for Making a Complaint

There is a 12-month time limit for making a complaint. Generally, consideration will not be given to complaints made more than one year after the date of the event which gives rise to the complaint, or the date the complainant became aware of it. This is to assist the Council in dealing with current complaints rather than historic matters.

It can be difficult to ensure a fair investigation if a significant period of time has lapsed since the original incident occurred, hence complaints reported after 12 months of the matter arising will only be investigated if there are special circumstances surrounding the delay.

Publicity

The procedure will be publicised: on the Council's website with appropriate links; in Council newsletters and other publications; and the Customer Service Network Staff are fully briefed on how to identify and record stage one complaints and to forward these complaints to the appropriate service area manager.

Accessibility

Some users may have individual needs, which may make accessing this process difficult, and each service should consider identifying such users and providing appropriate assistance to them. In particular non-English speakers should be provided with appropriate support and advice. Services specifically for young people and other vulnerable individuals should make procedures accessible to them. Advice on the availability of advocacy services should also be given.

Section 2 – How the Process Works

How to Make a Complaint

Whatever the reason for your concern, we want to hear about the problem so that we can go about putting it right as quickly as possible.

Complaints are initially handled by the Council's Customer Service Network and you can make a complaint in writing, by telephone, email or via the Council's website as follows;

| | |
|-------------------|--|
| Write to: | Complaints, City Hall, Plater Way, SR1 3AA |
| Telephone: | (0191) 520 5555 |
| Email: | <u>complaints@sunderland.gov.uk</u> |
| Website: | www.sunderland.gov.uk |

How Complaints will be Handled

The Council will take a proportionate approach to the assessment, investigation and review of complaints. Complaints are initially handled by the Council's Customer Service Network. The information is logged onto a database and then forwarded directly to the appropriate service area manager for consideration and response. The service area manager at this point will decide whether the complaint can be dealt with as an immediate resolution or whether the issues require an investigation.

Stage One – Immediate Resolution

The relevant service area manager should make an initial assessment as to whether the complaint can be resolved with an immediate response (within 48 hours). This can usually be considered if the matter appears very straightforward and suitable for a quick remedy. An example of this type of issue would be customer dissatisfaction about lack of service delivery where no investigation is required, and the issue can be addressed immediately with an appropriate apology and the delivery of the service.

Stage One – Investigation (timescale 25 working days)

Where it is not possible to immediately resolve a complaint, the relevant service area manager will arrange for an investigation of the issues and offer a response to the complainant.

The aim is to address the complaint comprehensively at this stage through investigation. Normally the service area responds to the complaint using information and evidence supplied by case officers and section managers. At times, specialist advice from other officers or assistance from independent external sources may also be required. In most cases relevant local and national policies and procedures will need to be identified and referred to.

Any investigation will normally include the following elements;

- Clarify complaint and preferred options. If necessary, confirm substance with the complainant or if not possible to agree, advise the complainant what will be investigated
- Undertake investigation which may include some or all of the following
 - Interview with case officers and other relevant staff
 - Review files including site notes, case diaries, telephone logs etc
 - Review, if appropriate, committee reports and minutes
 - Review relevant national and local policies, procedures and practices
 - Consult senior staff and/or take appropriate independent expert advice and/or legal advice.
- Summarise issues and come to a conclusion.
- Finalise response and sign off in consultation with Head of Service where this is appropriate.
- The response should include a considered conclusion and where appropriate a suggested remedy.
- The response **must** include advice on how to progress to a stage two review should the complainant remain dissatisfied.

Where the complaint relates to more than one service area, a suitable lead person should be agreed between the managers involved to allow for a coordinated and comprehensive response. The Complaints and Feedback Team can offer support and advice in respect of this.

Stage Two – Review (timescale 25 working days)

On referral the Complaints and Feedback Team will consider what further action is to be taken. In some circumstances the decision may be that no further investigation or consideration is necessary or appropriate, and the complainant will be advised that the Council could take the complaint no further, but that if the complainant remains dissatisfied, they can refer the matter to the Ombudsman. In most cases a review will be required, and a member of the Complaints and Feedback Team will carry this out. If a review of a professional judgement is required, this may have to be carried out along with a suitably qualified manager from the service area responsible for the action/decision that gave rise to the complaint.

Stage Two - Review - high complexity (timescale 65 working days)

There will be some instances where the level of complexity, regarding the elements of complaint, requires a more comprehensive consideration. In such circumstances, the Complaints Manager will decide whether the review itself should be carried out by an independent person or specialist consultant. The customer will receive a letter confirming that a review is to take place and who will undertake that review, together with the expected timescale. Once the review is complete, the customer will receive a copy of the review report.

Format of the Stage Two Review

Any review will normally include the following elements;

- A clear statement of the matters complained of and any preferred remedies; where appropriate these should be agreed in writing with the complainant
- Notes/Chronology of all relevant facts
- A summary of relevant policies and procedures
- A summary of the investigation
- A clear conclusion and where necessary, identification of a suitable remedy having regard to the Ombudsman's guidance.

The review should also be;

- Thorough, rigorous and unbiased
- Undertaken within a set timescale
- Respectful of confidentiality as far as possible.

Combined Complaint Investigation (timescale 65 working days)

There will be occasions where it is appropriate to merge Stages One and Two into one single investigation of the complaint/review of the Council's actions. In these cases, the Complaints and Feedback Team will take the lead and at the conclusion of the investigation/review, will provide a report to the relevant Head of Service for consideration and a single substantive response will be provided to the complainant.

The Council will not undertake a further review of the complaint and the complainant will be able to immediately progress their complaint to the Local Government & Social Care Ombudsman should they remain dissatisfied.

The Complaints and Feedback Team will also consider, in conjunction with the relevant Head of Service whether it would be more appropriate for an independent investigator to be appointed from an external source to undertake the single complaint investigation.

Further Action

At the end of the process the complainant will be advised of any further courses of action available to them, should they remain dissatisfied, in particular, the complainant's right to refer the matter to the Ombudsman.

The Local Government and Social Care Ombudsman

The Ombudsman has a statutory responsibility for investigating complaints of maladministration about local councils. However, the Ombudsman will usually only consider a complaint after it has completed the Council's complaints procedure.

At the end of stage two, complainants are advised of their rights to ask the Local Government and Social Care Ombudsman to review their complaint. Complainants usually have up to 12 months to do this, starting from the date their first knew about the matter you complained about. The Ombudsman will normally only consider complaints made within that time but can decide to look at older complaints if there is a good reason to do so.

The Ombudsman looks at individual complaints about councils, all adult social care providers (including care homes and home care agencies) and some other organisations providing local public services. It investigates matters fairly and impartially and is free to use. There are some matters the Ombudsman cannot or will not investigate. In these cases, it will explain clearly the reason for its decision.

The Ombudsman's contact details are below.

Website: www.lgo.org.uk

Telephone: 0300 061 0614

Opening hours: Monday to Friday - 10am to 4pm (except public holidays)

Management Information

It is important to us to use the information and feedback that we receive from complaints and representations to improve service delivery. Complaints and feedback are therefore monitored, the information is reported as below and best practice is disseminated throughout the Council by the following practices:

- All complaints, comments and compliments are logged
- Regular monitoring reports, including key learning outcomes for the service and/or wider Council, are considered at senior management meetings of each Directorate
- Regular reports are submitted to the Scrutiny Co-ordinating Committee.

Complainants may be asked for information on gender, nationality, age, disability or other personal characteristics and so on but should be advised that this information is only required to assist the Council to ensure that the complaints system is fair and accessible to all groups.

Relationships with other Council Policies

There are areas of commonality between this procedure and many other policies and procedures of the Council, including: Antifraud and Corruption Policy; Capability and Disciplinary Procedure; Code of Conduct for Employees; Equality and Diversity Policy; Harassment at Work Policy; Race Incident Reporting; Whistleblowing Policy.

The Complaints and Feedback Team will identify any instances where these policies also need to be considered in connection with a complaint.

Timescales

There are no statutory regulations about how quickly the Council should respond to complaints, but the Council will aim to respond to complaints within the timescales set out in the table below.

However, the Council recognises that there will be, on occasion, complaints where further time is required to allow for a full and thorough response. In such cases, the Council will provide regular updates to the complainant to keep them informed as to progress.

| | Timescale (within) |
|----------------------------------|---|
| Initial Assessment | 48 hours |
| Acknowledgement of complaint | 3 working days (in writing or verbally) |
| Stage One Investigation | 25 working days |
| Stage Two Review | 25 working days |
| Stage Two Review (complex cases) | 65 working days |
| Combined Complaint Investigation | 65 working days |

Resolution and Remedies

Where some justification is found for a complaint, consideration needs to be given to the question of appropriate remedy. An apology and/or explanation will always be needed where any part of the complaint is upheld. It may be necessary to determine who can provide remedial action and what arrangements are needed. The Council’s guidance on the use of financial redress is that this should be made in exceptional circumstances where some direct financial loss has been incurred and where agreement has been reached with the Head of Service.

Withdrawing a Complaint

A complainant may withdraw their complaint at any time. The relevant Directorate will consider whether or not the issue of concern requires further consideration under appropriate internal management review systems.

Anonymous Representations

Anonymous representations are not included in the procedure but may be acted upon at the Council's discretion. These complaints are recorded and referred to the relevant manager in the same way as other complaints.

Advocacy & Support

Anyone involved in the procedure, whether a complainant or a member of staff, can be represented or helped by someone of their choice at all stages. Appropriate permission from the complainant will be required to allow for the sharing of information. A complainant may wish to have the help and support of a family member. There is **no duty** on local authorities to provide an advocacy service in respect of this procedure.

Persistent and Unreasonable Complaints

We are committed to dealing with all complaints fairly and impartially and to provide a high-quality service to those who make them. However, there are occasions when contact from a complainant becomes too frequent or complex, so that it hinders our consideration of their complaints, or those made by other people. The Council does not expect its staff to tolerate behaviour by complainants which is unacceptable, abusive, offensive or threatening, and will take action to protect staff from such behaviour.

The term '*persistent and unreasonable complainant*' broadly applies to those customers who are aggressive or have demonstrated abusive behaviour as well as those who make unreasonable demands or become unreasonably persistent. In such cases we may take action to limit the contact the complainant has with us.

Customers to whom this policy may apply include those who:

- Refuse to accept the remit of the process to be undertaken as described to them.
- Request action that is not compatible with the process or make unreasonable demands.

- Introduce unrelated additional information and expect it to be taken into account.
- Make excessive contact with staff.
- Submit complaints about the same issues that have been previously dealt with.
- Engage with staff in a manner which is deemed unacceptable or inappropriate
- Refuse to adhere to previously agreed communication plans.
- Behave in a threatening or abusive manner, having been previously advised it is not acceptable.

In all cases, the Council will write to tell the complainant;

- Why it believes the behaviour is unacceptable.
- What action the Council will be taking.
- The duration of that action, how, and when it will be reviewed.
- How to challenge the decision if they disagree with it.

However, in cases of extreme behaviour, which threatens the immediate safety and welfare of staff, the Council will consider other options, for example reporting the matter to the police or taking legal action. In such cases, the complainant may not get prior warning of the action.

Learning Outcomes from Complaints

Listening to feedback about our services can identify potential service problems and affords us the opportunity of putting things right. The Council is determined to learn from complaints and any changes that we can make to help or prevent a recurrence and improve our service at any point in the process, will be highlighted and acted upon.

The Complaints and Feedback Team highlights trends and themes to senior managers on a regular basis for discussion and further dissemination to relevant line managers and staff.

Support for staff

The Council recognises that being involved in responding to complaints can be a stressful experience. Staff who are named in complaints, or whose evidence might be required as part of an investigation, should receive support through the line management structure. Anyone interviewed as part of a complaint's investigation is entitled to have a support person with them.

Officers of the Complaints and Feedback Team are available to give advice to all staff involved in complaints and this can be in a number of ways: helping to establish the most effective way of responding to a specific complaint; facilitating face to face meetings with the complainant; offering guidance regarding written responses; team briefing sessions on the complaints procedure; training on effective responses to complaints; training on complaints handling.

Recording of complaints

All information disclosed about a complainant must be confined to that which is relevant to the investigation of the complaint and only disclosed to those people who have a demonstrable need to know.

Where a complaint is made on behalf of a customer who has not authorised access or discussion of their records to a third party, the complaint should be investigated but care must be taken not to disclose confidential information. Particular care is to be taken where the customer's records contain information provided in confidence by or about a third party. Such information must not be disclosed to the customer unless the person providing the information has expressly consented to the disclosure.

We keep a record of the complaint and details of our involvement for a period of time from the closure of the complaint as set out below.

| Level of complaint | Retention Period |
|---------------------------|-------------------------|
| Stage 1 | 3 years |
| Stage 2 | 6 years |
| Ombudsman | 6 years |

Monitoring of complaints

Ongoing and regular monitoring of complaints will be undertaken by the Complaints and Feedback Team.

All complaints are logged onto a database that ensures records are kept of each complaint received including; the nature of complaint, the service area involved, the outcome of the complaint and whether timescales have been met together with any learning outcomes or

recommendations. Recommendations will be monitored and reported back to the Senior Management Team to ensure that they inform service improvement.

The Annual Complaints Report will be presented to the appropriate Scrutiny Committee and will include details of the activities of the Complaints and Feedback Team, any changes to the statutory procedures and a review of the operation and effectiveness of the Complaints Procedure.

Section 3 – Dealing with Comments and Compliments

The Council recognises that there is a need to ensure that we encourage people to give positive comments to help us understand what people like about our services.

The Council listens to all statements made by our customers whether positive or negative and uses them to help identify areas for improvement or areas of good practice. Our customers often have a valuable insight into how our services could be improved, alternatively they may be very happy and pleased with the service they have received. We ensure that such comments and observations are shared with staff.

There will also be occasions where customers want to make representations/suggestions which they do not regard or wish to have logged as a complaint. The Complaints and Feedback Team will forward these representations to the appropriate manager for their attention.

Informal Comments and Compliments

Many comments and compliments will often be made casually and informally, usually when the person is using the service, for example paying council tax or submitting a planning application. Such comments will be made face to face or via telephone. In these cases notes will be taken and forwarded onto the relevant service area manager, who should then decide whether any further action is required, i.e. whether the comment can be implemented to improve service delivery. If the suggestion is a sound one and can lead to service improvements, the service area manager will write to the person concerned, thanking them

for their input and informing them of the outcome of their comment. If the suggestion cannot be implemented to improve service delivery, then no further action need be taken.

Formal Comments and Compliments

Sometimes customers will take the time and trouble to send in their comments or compliments by letter or email. Such observations are dealt with in a more formal manner.

The following procedure should be adopted: -

- **Acknowledge Receipt** - all correspondence containing comments or compliments should be recorded when received and should be acknowledged within 5 working days of receipt.
- **Evaluating Comments** - written comments should be passed on to the relevant service area manager for evaluation. The manager should decide what action is appropriate and whether the suggestion(s) could improve the service. If positive changes can be made, the customer should be informed by letter/email.
- **Processing Compliments** - most compliments will not contain suggestions for improving service delivery and therefore cannot be actioned. However, staff morale can benefit from such compliments. Managers will therefore ensure that the relevant workers are notified of any compliments received.