

Resolving Complaints and Improving Services

Shropshire Council

Corporate Complaints and Representations Procedure

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Associated Document

Unreasonably Persistent and Vexatious Customer Procedure

Scope of the Representations and Complaints Procedure

1. Defining representations and complaints

Shropshire Council welcomes feedback from customers because it helps to improve the way we do things and to learn from things that have gone wrong.

This document sets out our procedure for working with customers who would like to make representations, including complaints, about the actions, decisions or apparent failings of the services we provide. One of the ways in which we acquire comments and opinions in order to influence service planning and delivery is through our customers' feedback:

❖ Comments

If a customer wants to make a comment about anything that the Council does or if they would like to make a suggestion on how we could improve the services that we provide, we will record the details and ensure that the relevant service area is provided with the details.

❖ Compliments

If customers receive a particularly good service and wish to make a compliment, we will ensure that the person or service is made aware.

❖ Complaints

A complaint may be generally defined as an expression of dissatisfaction about a council service, whether that service is provided directly by the council, a Contractor or Commissioned service. Complaints can provide valuable learning points which helps to improve service delivery.

Details of how to provide feedback to the council can be found on the link below;

<https://shropshire.gov.uk/feedback>

2. Procedure

This is a procedure for Corporate Complaints only. Complaints relating specifically to Children's Services and Adult Social Care are covered separately.

The procedure is framed to:

- Provide a quality and responsive service;
- Acknowledge that all people who receive services have a right to complain if they think that something that should have been done has not been done, or that something has been done badly or incorrectly.

3. Key Principles

This Procedure is designed to:

- Ensure that customers are treated fairly and assist them in making a complaint by being easy and straightforward to use;
- Be accessible;
- Ensure complaints will be investigated as quickly and thoroughly as possible, and in a positive, problem-solving manner;
- Ensure that the outcome and resolution of complaints will be used to monitor the Council's performance and improve service delivery;
- Reflect the Council's and service areas desire to provide a quality service.

We will endeavour to ensure that customers receive whatever help and guidance they require to aid them in making a complaint or in understanding the procedure. Where appropriate this help will include the provision of interpreters and advocates.

4. What may be complained about?

A complaint may arise because of a variety of issues relating to a service's functions such as:

- An unwelcome or disputed decision (if no appeal process applies – see examples in the following section);
- Concern about the quality or appropriateness of a service;
- Delay in decision making or provision of services;
- Delivery or non-delivery of services, including complaints procedures;
- Quantity, frequency, change or cost of a service;
- Attitude or behaviour of staff (unless it warrants internal disciplinary action)
- Insufficient proficiency in spoken English by a member of staff in a public-facing role. (Under the Code of Practice on the English language requirements for public sector workers; Part 7 of the Immigration Act 2016).

5. What is exempt from this complaints procedure?

There are occasions when this procedure will not be the appropriate procedure to be used for instance when it is:

- A request for a service;
- A complaint about Adult Social Care Services;
- A complaint about Children's Services;
- A complaint about the conduct of Directors and Corporate Heads of Service; these will be referred directly to the Chief Executive;
- A complaint regarding the conduct of a Councillor; these will be referred directly to the Monitoring Officer;

- Matters under consideration by the Courts and Tribunals and cases where legal proceedings are being considered/initiated.
- Complaints against schools (www.education.gov.uk/schoolcomplaints);
- Whistle blowing – where staff are raising issues these will be dealt with under the whistle blowing procedures;
- A staff employment issue, where disciplinary and grievance procedures will be used;
- Not related to the actions or decisions of this local authority, or of anybody acting on our behalf;
- The same complaint that has already been dealt with by our complaints procedure;
- The complaint is more than 12 months old and it would not be possible for the council to consider the complaint effectively and fairly, e.g. due to changes in staffing and record retention timescales. (see exceptions section 13);
- There is a potential or actual insurance claim (see section 6).

Or there is an alternative statutory appeal or tribunal processes, including:

- An appeal against Court rulings;
- Appeals against the refusal of planning permission, planning enforcement or licensing decision;
- A complaint about the issue of a penalty charge notice (except administrative issues);
- Complaints about 'registered' housing providers;
- School/Academy admission or exclusion appeals;
- Special Educational Needs (SEN) Tribunals;
- Housing Benefit appeals;
- A complaint against the refusal of disabled badges for parking exemption.

A complaint will not be taken where it relates to the decision/outcome of an appeal. However a complaint may be taken relating to the process of how the decision was made.

6. Compensation Claims

Usually this involves the customer suffering loss or injury arising out of an alleged negligent act by the Council, its employees or agents. On receipt of complaints referring to compensation claims an assessment will be made to identify which process the case should follow. If the case should be progressed as an Insurance case the customer will be informed.

7. A Complaint Regarding External Contractors

Shropshire Council is responsible for complaints about services provided on its behalf, and each contract will set out responsibilities for complaint handling. Either complaints will be managed through the provider's complaints process or through the council's complaints process. Customers should be advised of the correct process to follow to make a complaint. However, any questions about the complaints process can be directed to Shropshire Council's Customer Feedback officers and advice will be given.

It is important that the external provider be given the opportunity to try to resolve any concerns before a formal complaint is made.

Each external provider has their own complaints procedure in line with their contractual obligation to the council.

8. Anonymous Complaints

From time to time the council receives anonymous complaints and although these will be passed to the relevant service for information, ordinarily there will be no further action unless the service involved considers it appropriate to do so.

9. Relationships to Other Procedures

This procedure may be suspended if any of the following procedures are invoked

- Disciplinary and Grievance Procedures
- Children's Social Care Complaints Procedure
- Adult Social Care Complaints Procedure
- Harassment Procedures
- Police Investigation – Criminal
- Safeguarding Procedure

10. Who may complain?

The Council will consider representations including complaints made to us by any customer or third party who is contacting us on the customer's behalf. A complaint by a representative will not be considered by the council unless satisfied that the representative is acting with explicit consent of the customer or under a Power of Attorney.

In the case of a customer who lacks capacity to make a complaint themselves a third party complaint will only be permitted when the Senior Customer Feedback and Complaints Officer, in discussion with the senior manager from the service area, determine that the third party who is not an advocate is acting in the Best Interest of the service user.

11. Basic Principles of Complaints

Concerns or worries are often raised as part of normal everyday interaction between services and their customers. Normally these will be easily resolved by staff working on a day-to-day basis with the customer. However, there may be complaints that cannot be sorted out in that way to the customer's satisfaction.

Basic Principles:

- Most complaints arise from a genuine feeling of grievance and not of maliciousness;
- Small grievances can become large if not dealt with at the early stages;
- Complaints can serve to highlight genuine deficiencies in service and staffing levels;
- People have the right to complain, to be heard, and to have their complaints looked into as quickly as possible;
- Handling complaints properly is an important part of the way the Authority provides its services;
- Complaints are part of the feedback system as to how services are provided;
- The confidentiality of the customer and those persons mentioned (whether staff or others) should be appropriately protected;
- Even persistent/vexatious customers can have a new valid complaint.

12. Values

This procedure sets out certain values that the Council regards as central to this process.

- That services and information about services should be readily available and easy to understand;
- That customers are involved as fully as possible in our processes to promote better services;
- That people have rights, and can ask the service to account for its action or inaction on their behalf;
- That people have the right to redress when the services provided have not been good enough and when there has been an injustice caused by the Service.

These values establish a number of things for our services and for our staff:

- That the Council should be trying to provide a quality service that is fit for purpose and resilient. Where this does not happen, for any reason, then the Complaints Procedure offers a means of redress and of improving the quality of the service provided;
- The rights of individuals to complain are clear. However, the right of staff to equally fair treatment is also explicit. This procedure does not provide a means of placing one person's "rights" above those of another.

13. Framework for Managing Complaints

Service Areas should be able to deal with the majority of issues that customers raise quickly and informally and will be encouraged to do so. Therefore all complaints received will be directed to the relevant service area in the first instance for them to address directly with the customer, and ensure that appropriate recording on the Council's Complaints system takes place. However, if following this the customer finds that their issues have not been resolved there is the option for the customer to progress their issues as a formal complaint.

It is important that customers are aware that this procedure applies to formal complaints only. For example, it does not apply to 'service requests' or 'reporting a problem' e.g. request for fly-tipping removal, nor does it apply to a planning application objection or a complaint about Council policy or policies etc, although these may become complaints if, for example, a service request or reporting of a problem is not properly and promptly dealt with in accordance with the applicable service standards.

❖ **Complaints about issues or events that occurred more than 12 months prior to the date of the complaint will not normally be considered unless any of the following circumstances apply:**

- The customers were not aware, until beyond the period of 12 months, of the actions of the Council which now form the subject of the complaint;
- The customer was incapacitated by ill-health beyond the 12 month period which prevented him/her from making a complaint within the allowed timescales and provides proof of this;
- It would have been unreasonable for the complaint to have been made earlier than it was made;

Similarly there will be no review of a complaint that was dealt with more than 12 months ago.

There are two stages to this procedure as defined below:

14. Stage 1 – Service Investigation

- If it has not been possible to resolve the complaint informally, the complaint will be recorded formally by the relevant service area on the Council's Complaints system.
- The relevant service area will investigate the complaint and respond to the customer within the timescales set out in this procedure.

15. Stage 2 – Monitoring Officer Review /Commissioners Review

- If the customer is not satisfied with the outcome of the investigation at Stage 1, they may request that the complaint be reviewed providing their reasons for this. The request for a review and any subsequent investigation would be considered by the Complaints Monitoring Officer.

- The customer will be asked to provide details of why they feel that their complaint has not been fully responded to at Stage 1;
- However, if it is considered that there are no suitable grounds for escalating the complaint to Stage 2 the customer will receive written confirmation detailing the reasons why their request had been declined, together with contact details for the Local Government and Social Care Ombudsman (LGO).

The purpose of a Stage 2 Review is to consider if:

- The customer's complaint was fully understood and addressed;
- All of the relevant evidence was taken into account;
- The Council's policies and procedures were properly followed;
- The complaints process was carried out properly and fairly;
- The conclusions were reasonable and fair and reached on the basis of evidence;
- Any other actions or remedies are appropriate.

It is not to:

- Reinvestigate the complaint – it will focus on understanding continuing concerns and consider whether the Stage 1 Resolution was undertaken fairly and that the conclusions reached were reasonable;
- Revisit a decision taken by committee or an officer under delegated powers;
- Undermine the professional judgement of officers (for example it would not be appropriate to revisit a decision taken by a senior member of staff such as the Chief Executive or a Director);
- Review Council policy;
- Deal with any new matters that were not part of the original complaint;
- Cover any points dealt with by a court or where an appeal against a decision lies with a court or other legal process.

16. Response Times for Stages 1 and 2

- The Council, in accordance with the LGO guidance on running a complaint system, will focus on our complaints taking **in total** no longer than 12 weeks from receipt to resolution. All complaints will be acknowledged in 5 working days.
- Each stage will have a maximum response timeframe of 6 weeks. If the complaint is complex and the service area is unable to complete a full response by the 6 week deadline the customer will be contacted and a discussion will take place about the reasons for the delay, but to also confirm the new response date.
- Customers choosing to progress from Stage 1 to Stage 2 of the procedure will have 20 working days from the date of the Council's Stage 1 response to make a request for

their complaint to progress to the final stage of the complaints procedure. These 20 days will be excluded from the 12 week receipt to resolution timeframe.

- Customers will be notified in writing of the outcome of the Stage 2 review together with contact details for the Local Government and Social Care Ombudsman, if they remain dissatisfied.

17. Local Government and Social Care Ombudsman (LGO)

If a customer is unhappy about the way that the Council has dealt with their complaint they can contact the Local Government and Social Care Ombudsman who is independent and can investigate complaints about most Council matters. The Ombudsman would normally expect a complaint to be made to them within 12 months of when the complainant first knew of the problem that they are complaining about.

The Ombudsman normally requires all complainants to go through all stages of their Council's own Complaints Procedure before considering the complaint. However, in certain circumstances the Ombudsman has the discretion to waive this requirement. This might be because delay could cause harm to the complainant. The complainant should be advised of the normal requirement to complete the Council's Complaints Procedure but also that they can contact the LGO Advice Team for further advice.

Full details of how the Local Government and Social Care Ombudsman deals with complaints can be found on the Ombudsman website www.lgo.org.uk

Local Government and Social Care Ombudsman
Telephone: 0300 0610614
Online form: <https://www.lgo.org.uk>

Write to:
Local Government and Social Care Ombudsman
PO box 4771
Coventry
West Midlands
CV4 0EH