

Corporate Complaints Policy

Putting our customers first



October 2018



Summary

This policy provides the Council's approach for handling corporate complaints.

We want to ensure that when our customers are telling us that they are dissatisfied with a service, we respond in a timely and appropriate way.

Our approach is based on the following principles in line with the Local Government and Social Care Ombudsman (LGSCO) guidance: More detail on these can be found in Appendix 1

- **Accessibility** – We will ensure that the complaints process remains accessible, easy to read and that the information we publish is accurate and up to date.
- **Accountability** – Information is provided in a clear and open way and is properly managed.
- **Timeliness** – We will respond within a reasonable timescale wherever possible.
- **Fairness** – We will be clear about roles and responsibilities and ensure that complaints are dealt with in an open-minded and impartial way. Responses are proportionate; one size does not fit all.
- **Learning** – We will learn from our mistakes by using them to improve our services.

Our Approach

Our aim is to ensure that complaints are handled in a consistent, fair and appropriate manner.

We want to ensure that we are clear on what process we will follow and how we will deal with a corporate complaint.

We are also committed to ensuring that our staff are fully trained on complaints handling and can deal effectively with customer feedback.

What is a complaint?

A complaint to us is 'an expression of dissatisfaction about one of our services'.

This could generally, but not exclusively, come under the following categories:

- A complaint about a service.
- A complaint about a member of staff.
- A complaint about a policy.

Scope

This policy covers all complaints **except**:

- (i) Complaints which have already completed the Council's internal complaints process.
- (ii) Complaints that have already been investigated by the LGSCO.
- (iii) Statutory complaints about Children's or Adults Social Care Services and complaints, follow separate policies and procedures are in place to deal with these. For further information, please contact the relevant complaints officer below:
 - Adult services complaints - 03000 266855, email AHSCComplaints@durham.gov.uk
 - Children's services complaints - 03000 265762 or 07387 252448, email CYPSCComplaints@durham.gov.uk

Alternatively, write to Durham County Council, Complaints Officers, Room 2/130, County Hall, Durham, DH1 5UJ.
- (iv) School complaints – each school has their own complaint procedure. Contact the school directly to submit a complaint.
- (v) Where there are existing appeals procedures or legal resolution in place for decisions (e.g. decisions on planning applications, home to school transport, school admissions, applications for housing benefits and homelessness applications).
- (vi) Complaints against Elected Members as these are dealt with under a separate policy and procedure [Elected Members Complaints](#) . Further information is available from the Council's Monitoring Officer. They can be contacted via the online form on the Council's web site or alternatively write to Durham County Council, The Monitoring Officer, County Hall, Durham, DH1 5UL.
- (vii) All instances involving potential insurance claims will be directed to the council's insurance team. They can also be contacted directly by emailing corporateinsuranceteam@durham.gov.uk or alternatively telephone 03000 269659 or write to the Corporate Insurance Team, County Hall Durham, DH1 5UL.
- (viii) When your complaint is about alleged serious misconduct about an employee of the Council, this will be dealt with through our internal HR Procedure, as it would not be appropriate to deal with the issue through the Complaints Policy. We will not provide details or the outcome of those internal procedures, but we will let you know once internal processes are complete.
- (ix) Where there has been a potential data breach in accordance with the Data Protection Act. There is a separate process for this outside of the Complaints Policy, which involves a full investigation of the matter and referral to the Office of the Information Commissioner should the customer remain dissatisfied following internal review.
- (x) Where a customer is dissatisfied with the outcome of an FOI or subject access request, there is a process of internal review and escalation to the Office of the Information Commissioner [Website](#)
- (xi) The Council will not usually investigate complaints made more than twelve months after the first time the issue is reported.

We will accept complaints from anyone who has received a service or anyone acting on behalf of a person or organisation receiving a service from the council. Explicit permission is required where a complaint is being made on behalf of the service user.

This Policy also sets out the steps that the Council will take to address the behaviour of service users who act in an abusive, unreasonably persistent or vexatious manner and who place unreasonable demands upon staff and the council this is outlined in Appendix 2.

Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable us to take further action, we may decide not to pursue it further. If we pursue an anonymous complaint further, we will record this on the complaints system. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action.

Complaints sent directly to the Chief Executive or other Corporate Directors, will be logged as a corporate complaint and will be managed and progressed through the corporate complaints procedure.

Where a Councillor or MP makes a complaint on behalf of a constituent, this will be logged as a corporate complaint and will be managed and progressed through the complaints procedure.

How will we deal with your complaint? (see also Appendix 1)

Stage 1

Your complaint will be allocated to the relevant team who will investigate the matters you have raised.

You can expect:

- an acknowledgement letting you know who is dealing with your complaint and what will happen next
- Where the points of complaint are not clear, or where further information is needed we will contact you
- A full response within 10 working days. Should investigations take longer we will contact you with an update.

If you remain dissatisfied with the outcome at this stage, you can ask that your complaint be considered for further investigation by the feedback team at Stage 2 of the complaints procedure. We expect you to ask for this within 20 working days of the Stage 1 response.

Your escalation request should let us know your reasons for progressing your complaint and your desired outcome.

Stage 2 – Formal investigation

When a Stage 2 escalation is received, your complaint will be reviewed by a Customer Feedback Investigation Officer, who was not involved in your original complaint. The aim of this review is to determine if all matters raised in your complaint have been comprehensively and accurately addressed.

If we decide not to investigate, we will write to you explaining why this may be, for example, the matters relate to a particular policy which has been applied correctly and any further investigation would not be of benefit as the outcome would not alter.

You can expect:

- An acknowledgement informing who is dealing with the escalated complaint and the time frames for a response.
- An appropriate response.

Local Government and Social Care Ombudsman

If you remain dissatisfied with the response you received at stage 2, you can refer your complaint to the Local Government and Social Care Ombudsman. Further details can be found at <http://www.lgo.org.uk>.

Remedy

Remedies offered may not necessarily be about money. Where fault has been found, we will apologise and try to return you to the position you would have been in before the error. This could be provision of a service, amending a process or procedure, correcting an error, or changing a decision. It may be that an apology is a suitable remedy. For more information surrounding remedies, please refer to DCC Remedy Policy.

Learning from contact

When investigating the complaint, consideration must be made for what potential actions could be taken to prevent a similar complaint from occurring again. Where appropriate, if action(s) are identified before formally responding to the complaint they will be included in any response.

Learning outcomes will be reviewed to understand their impact. Trends will be assessed to identify patterns, investigate potential causes and identify opportunities for service improvement.

Independent mediation

Where there are complex issues between two parties, one being the council, it can sometimes be advisable to seek independent mediation in order to resolve the complaint.

Advice and guidance will be sought from the Head of Legal and Democratic Services before entering into agreements for independent mediation.

Persistent and vexatious complainants

There will be cases where a complainant will persist even after the conclusion of their complaint. They will often follow multiple channels of contact (Customer Feedback Team, Chief Executive or Director, Councillor or MP, Advocate, Freedom of Information/Data Protection, and social media).

Whenever a complaint is received which has been investigated previously, and concluded with a response, the matter needs to be referred to the Customer Relations Team Leader. If the material points of the complaint are the same as the

previously determined, then the Customer Relations Team Manager will determine next steps. See **Appendix 2: How we deal with abusive, unreasonable persistent or vexatious complainants.**

Equality and Diversity

Equality is at the heart of everything the council does and our aim is to treat people fairly with respect and dignity. The policy complies with legal requirements in relation to age, disability, gender, pregnancy and maternity, marriage and civil partnership, gender reassignment, race, religion or belief and sexual orientation. Reasonable adjustments will be made for people with disabilities.

Record Keeping and Data Protection

Clear and accurate records of all complaints will be kept for a minimum of 2 years.

Please refer to the [Durham County Council Privacy Statement](#)

Training for staff

All officers who deal with complaints on behalf of the council will be given training and access to guidance on delivery of the complaints process.

Review

The Customer Feedback Team will review the policy by June 2020.

Appendix 1: Principles to be followed when handling a complaint

Principle	What we will do
Accessibility	<ul style="list-style-type: none"> • Our complaints policy will be well publicised, accessible and understood by staff. • The guidance and process for feeding back to the council will be simple yet effective and provide a clear and effective process for handling complaints. • Stages in the complaint handling process will be kept to a minimum. • Information on support services will be provided to service users.
Accountability	<ul style="list-style-type: none"> • Information will be provided in a clear and open way and honest evidence based explanations provided to give reasons for our decisions. • We will acknowledge our mistakes and put matters right. • We will ensure that service users are informed of their right to complain to the Local Government Ombudsman.
Timeliness	<ul style="list-style-type: none"> • Wherever possible and within the parameters of what is appropriate, investigating officers from relevant service groupings will try and resolve the complaint at first point of contact. • Timescales for responding to the service user will be communicated to the service user, adhered to and monitored. • Complaints will be acknowledged within 24 hours and if it is not possible to resolve the complaint immediately, timescales will be agreed between the investigating officer and the service user.
Fairness	<ul style="list-style-type: none"> • Feedback will be received and dealt with in an open-minded and impartial way. • Service users will be treated fairly and their issues taken seriously. • Responses will be proportionate; one size does not fit all. • Roles and responsibilities will be clear both to the service user and staff. • Service users will be assured that making a complaint will not adversely affect their future dealings with the council.
Learning	<ul style="list-style-type: none"> • Feedback will be used to show how our performance is perceived by service users and how it can be improved. As a council we will have a feedback loop into the service areas. • In order to learn, there will be ongoing monitoring to ensure that timescales and satisfaction levels are met.

Appendix 2: How we deal with abusive, unreasonable persistent or vexatious complainants

1. Dealing with a complaint is a straightforward process, but in a minority of cases, people pursue their complaints in a way which can either impede the investigation of their complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint.
2. When this occurs both statutory and corporate complainants will be subject to the following.
3. We will not normally limit the contact which complainants have with council employees. It is important to distinguish between people who make a number of complaints because they really think things have gone wrong, and people who are simply being difficult. It must be recognised that service users may sometimes act out of character at times of anxiety or distress and reasonable allowances should be made for this.
4. We do not expect staff to tolerate abusive, vexatious or unacceptable persistent behaviour by complainants or any service users. Where a person's behaviour threatens the immediate safety and welfare of staff, a decision will be taken to place that person on the council's Potentially Violent Persons Register (PVPR). Abusive, vexatious or unacceptable persistent behaviour in the context of the PVPR is defined as conscious, deliberate or malicious acts of violent, aggressive or abusive behaviour towards Council employees including physical assault. The following behaviours will not be tolerated and apply to all of the access channels including: telephone, face to face, email, web form and social media.
 - Using abusive or foul language
 - Multiple contact to the service
 - Physical assault
5. Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to someone being regarded as a vexatious or an unreasonably persistent complainant.
6. Even where an applicant displays abusive, vexatious or unacceptable persistent behaviour they can still make requests for information. These will be assessed according to the relevant access to information legislation. There are grounds within the Freedom of Information Act to declare a request as vexatious. However, this is a separate process managed by the Information Management Team in consultation with Legal Services.
7. Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled vexatious or unreasonably persistent. The principles outlined in paragraph 10 must be applied.

Abusive, unreasonably persistent and/or vexatious definitions

8. We define abusive, vexatious or unreasonably persistent complainants as those complainants who, because of the frequency or nature of their contacts with the council, hinder our consideration of their or other people's complaints. The description 'abusive', 'unreasonably persistent' and 'vexatious' may apply separately or jointly to a particular complainant. Once complainants have exhausted the council's complaints procedure they can pursue their complaint with the Local Government or Housing Ombudsman, or through legal challenge.
9. Examples include the way or frequency that complainants raise their complaint with staff, or how complainants respond when informed of our decision about the complaint.
10. Features of an abusive, unreasonably persistent and/or vexatious complainant include the following (the list is not exhaustive, one single feature on its own does not necessarily mean the person will be considered as being in this category):

An abusive, unreasonably persistent and/or vexatious complainant may:

- have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he or she does not admit or make obvious);
- refuse to specify the grounds of a complaint despite offers of assistance;
- refuse to accept that issues are not within the remit of the complaints policy and procedure despite having been provided with information about the scope of the policy and procedure (e.g. parking ticket and planning appeals; policy decisions);
- refuse to accept that issues are not within the power of the council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation);
- insist on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, that there must not be any written record of the complaint);
- make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced;
- make an unreasonable number of contacts with us, by any means in relation to a specific complaint or complaints;
- make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, faxes, telephone calls or emails);
- harass or verbally abuse or otherwise seek to intimidate staff dealing with their complaint, in relation to their complaint by use of foul or inappropriate language or by the use of offensive language;
- change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed;

- deny statements he or she made at an earlier stage in the complaint process;
- refuse to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given;
- make the same complaint repeatedly, perhaps with minor differences, after the complaints procedure has been concluded, and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure;
- persistently approach the council through different routes about the same issue;
- persist in seeking an outcome which we have explained is unrealistic for legal or policy (or other valid) reasons;
- refuse to accept documented evidence as factual;
- complain about or challenge an issue based on a historic (more than a year old) and irreversible decision or incident;
- have knowingly recorded meetings or face to face/telephone conversations without prior knowledge and consent by the parties involved.

Imposing restrictions

11. We will ensure that the complaint is being, or has been, investigated properly according to the corporate complaints procedure.
12. In the first instance the service manager will consult with the Customer Relations Team Manager prior to issuing a warning to the complainant. The service manager will contact the complainant either in writing, by phone or face to face to explain why this behaviour is causing concern, and ask them to change this behaviour. If a complainant has a disability, reasonable adjustments will be made if necessary. The service manager will explain the actions that the council may take if the behaviour does not change. All telephone or face to face conversations will be carefully documented.
13. If the abusive, vexatious or persistent unacceptable behaviour continues, the Customer Relations Team Manager will issue a reminder letter to the complainant advising them that the way in which they will be allowed to contact the council in future will be restricted. The Customer Relations Team Manager will make this decision and inform the complainant in writing of what procedures have been put in place and for what period.
14. Any restriction imposed on the complainant's contact with the council will be appropriate and proportionate and the complainant will be advised of the period of time the restriction will be in place for. In most cases restrictions will apply for between 3 and 6 months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis. Any entry onto the Potentially Violent Person's Register will be for 12 months, any repeat instance of violence or aggression within the PVPR timeframe will result in a reset of the PVPR entry, effectively resetting the entry for a further 12 months.

15. Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:
 - banning the complainant from making contact by telephone except through a third party e.g. councillor/friend acting on their behalf;
 - banning the complainant from using some council buildings to access services;
 - banning the complainant from accessing any council building except by appointment agreed by relevant service manager;
 - requiring contact to take place with one nominated single point of contact;
 - restricting telephone calls to specified days / times / duration;
 - requiring any personal contact to take place in the presence of an appropriate witness and/or advising that the conversation will be recorded;
 - letting the complainant know that we will not reply to or acknowledge any further contact from them on the specific topic of that complaint (in this case, a designated member of staff should be identified who will read future correspondence);
 - in extreme circumstances, the Council may involve the Police. Where this is the case, the complainant will be advised that this is the course of action that the Council is taking and why. Examples include:
 - abusive and threatening behaviour
 - physical abuse
 - refusal to leave the premises
16. When the decision has been taken to apply this policy to a complainant, the Customer Relations Team Manager will contact the complainant in writing (and/or as appropriate) to explain:
 - why we have taken the decision;
 - what action we are taking;
 - the duration of that action;
 - the review process of this policy; and
 - the right of the complainant to contact the Local Government Ombudsman about the fact that they have been treated as an abusive, vexatious/persistent complainant.
17. The Customer Relations Team Manager will enclose a copy of this policy in the letter to the complainant.
18. Where a complainant continues to behave in a way which is unacceptable, the Customer Relations Team Manager, in consultation with the Head of Legal Services, may decide to refuse all contact with the complainant and stop any investigation into his or her complaint.

19. The status of a complainant judged to be unreasonably persistent or vexatious will be reviewed by the Customer Relations Team Manager after three months and at the end of every subsequent three months within the period during which the policy is to apply. During this period an integrated restorative practice approach will be considered to try and find a positive way forward for all parties involved.
20. The complainant will be informed of the result of this review if the decision to apply this policy to them has been changed or extended.
21. Where the behaviour is so extreme or it threatens the immediate safety and welfare of staff, we will consider other options, for example reporting the matter to the police or taking legal action. In such cases, we may not give the complainant prior warning of that action. In those cases the complainant will be put on the Potentially Violent Persons Register for a minimum of 12 months.

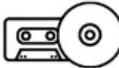
New complaints from complainants who are treated as abusive, vexatious or persistent

22. New complaints from people who have come under this policy will be treated on their merits. The Customer Relations Team Manager will decide whether any restrictions which have been applied before are still appropriate and necessary in relation to the new complaint. We do not support a “blanket policy” of ignoring genuine service requests or complaints where they are founded.

Please ask us if you would like this document summarised in another language or format.

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