

Comments/Compliments/ Complaints Procedure

Corporate Services

April 2016

DEFINING A COMPLAINT

For the purposes of this procedure, a complaint is defined as:

“an expression of dissatisfaction about the standard of service, the way in which it has been provided or any lack of action on the Council’s behalf.”

There may be instances when the Council has failed to provide a service such as a missed refuse collection, insufficient grass cutting etc. Whilst the customer may raise this as a “complaint”, it should not be dealt with by the formal complaints procedure in the first instance. It is important that such mistakes or omissions are rectified promptly and the customer advised of the action taken. It is also important that these instances are recorded within each service area so that any trends can be identified and steps can be taken to prevent a reoccurrence.

COMMENTS AND COMPLIMENTS

When a comment or compliment is received, this should be passed onto the Complaints Officer in Corporate Services who will copy it to the relevant Director of Service for feedback to the service or individual concerned.

Should the Complaints Officer deem the comment to be of a negative nature, it will be discussed with the relevant Director of Service so that the required actions can be undertaken. If necessary, stage 1 of the Complaints Procedure should be invoked.

FORMALISING A COMPLAINT

A complaint becomes formal when the customer remains dissatisfied with the initial response after raising the matter with the service concerned and wishes to pursue the matter. If you have made every effort to resolve a complaint, then you should inform them that we have a formal Complaints Procedure that they can follow. Customers should not be discouraged from complaining and every effort should be made to assist them in the process.

SCOPE OF THE COMPLAINTS PROCEDURE

Complaints could arise from the following areas:

- failure to provide a service at the level or standard specified by the Council
- the perception of an unhelpful attitude by a council employee
- neglect or delay in answering an enquiry or in responding to a request for service
- failure to follow the Council’s agreed policies, rules or procedures
- failure to take a proper account of relevant matters in coming to a decision
- not telling people of their rights
- malice, bias or unfair discrimination; or

- a racially motivated incident

COMPLAINTS EXCLUDED FROM THIS PROCEDURE

There are some types of complaint that are excluded from this procedure.

- complaints which amount to a disagreement with the Council about its decision, rather than the way the decision has been carried out (for example the level of the Council Tax).
- a planning or development control matter where a right of appeal exists, unless the complaint relates to the way the matter has been administered.
- a Council decision where regulatory powers are being exercised (for example, licensing or environmental health functions), unless the complaint relates to the way the matter has been administered.
- any matter which could reasonably be expected to be the subject of court or tribunal proceedings.
- complaints which amount to a disagreement with, or a refusal to, accept a legal ruling that the Council is applying.
- Housing Benefit, Residual Community Charge, Council Tax, NNDR, or any other matters where statutory appeals procedures exist.
- Housing Allocation matters where separate procedures exist.
- Insurance Claims. These should be dealt with separately, in line with the procedure issued by Financial Services. Under no circumstances should you respond to a potential insurance claim without prior reference to Financial Services, since an admission of liability (however oblique) may render the insurance claim invalid.

MONITORING OF COMPLAINTS

The Corporate Services department will keep a record of formal complaints received and report performance twice yearly to the Finance & Management Committee on the resolution of complaints, drawing attention to any trends that may indicate the need for improvements in service. The Director of Service will complete a complaint assessment sheet for each complaint received to monitor/review any trends in complaints and report what action is being taken to improve services/procedures. This will also provide an opportunity for all service departments to review the Complaints Procedure itself.

In addition, the Complaints Officer will carry out a survey of complainants to ascertain whether they were happy with the way their complaint was handled.

HOW COMPLAINTS WILL BE DEALT WITH - PROCEDURES TO FOLLOW

If the complaint has reached an advanced stage before the formal procedure is invoked, some stages may be rendered unnecessary and bypassed. The person making the complaint will be kept

informed of progress at all stages and will have the right to have their complaint dealt with in confidence.

Where the person making the complaint has requested the involvement of their Councillor, they can also ask for details to be given to that Member, including progress on the complaint at all stages.

All formal complaints should be treated as urgent and should be referred to Corporate Services on the day of receipt. Documents should be delivered by hand and not via the internal postal system.

INITIAL COMPLAINT

Complainants should initially be referred to the service that is the subject of the complaint. It is hoped that the majority of complaints can be resolved at this level, by the service department concerned. However, if the complainant is unhappy with the response and wishes to formalise the complaint, Stage 1 should be invoked.

Stage 1

All formal complaints should be referred to the Complaints Officer, who will ensure that the complaint is logged and an official complaints form completed if necessary. This will ensure an audit trail for all complaints.

Complaints may be made on the official complaint form (either on paper or via the website), by telephoning the Complaints Officer on (01283) 595892, by reporting the matter in person at the Civic Offices, or by putting the details in writing via a letter. Clients should be advised that formal letters of complaint should be addressed to the Complaints Officer, South Derbyshire District Council, FREEPOST RTHU-RKKL-UXYY, Swadlincote, Derbyshire, DE11 0AH. A proforma covering letter is available to send out with a copy of the Complaints Procedure/Complaints form where this has been requested. If a customer has already supplied full details of their complaint via either the telephone, or in person at the Civic Offices, under no circumstances should they then be asked to repeat the information to Customer Services or be asked to complete a complaint form; it is incumbent on the officer receiving the complaint to record the details on the form and ask the complainant to verify the details before passing it to Corporate Services.

The Corporate Services department will record all such complaints, issuing a reference number to each one so that it can be tracked throughout the enquiry. They will ask for the complaint to be dealt with by a designated officer at a higher level than the person who originally handled the matter.

Corporate Services will acknowledge the complaint within five working days, identifying who is dealing with the matter. They will then liaise with the appropriate officer in the service unit concerned to co-ordinate a response to be sent within ten working days from receiving the complaint. The Complaints Officer will then send the response, after agreeing any changes to the content of the document with the originator. If there is to be a delay that will prevent a full response being made, the complainant will be notified and given an indication of when a full response may be given.

If the complaint is concerning more than one service unit the Complaints Officer will co-ordinate a corporate response to the issues raised by asking for a report from the respective Directors of Service.

Home Visits

Where the complainant has genuine difficulty in traveling to the Civic Offices and needs assistance with completing a complaints form, a home visit will be offered by officers from Corporate Services.

Conciliation

Where appropriate, the complainant will be invited to attend a meeting with a senior officer from the department which is the subject of the complaint, together with a senior officer from Corporate Services, who will act as mediator.

Stage 2

Where a complaint has still not been resolved, the complainant will be advised of their right to have their case reviewed by the Chief Executive, who has the authority to overrule the decision taken on the complaint. Where this action is required, the complaint will be referred to the Chief Executive with copies of relevant documents and details of the decision/action taken by the service involved to resolve the matter.

Corporate Services will send an acknowledgment on behalf of the Chief Executive, within five working days of receiving the details. The Chief Executive will then review the case with the assistance of staff from the relevant department. A full response should be sent from the Chief Executive within 10 working days. The complainant will be advised by Corporate Services of any perceived delays in responding, where appropriate. When making the full response, the Chief Executive will also advise the complainant of their right to refer the matter to the Local Government Ombudsman (except for Social Housing Landlord issues) if they remain dissatisfied. Copies of all correspondence between the Chief Executive and the complainant will be passed to Corporate Services for their file.

Referrals to the Local Government Ombudsman

At any time, the complainant may refer their complaint (either directly or via their Councillor) to the Local Government Ombudsman (except for Social Housing Landlord issues). Normally, the Ombudsman will afford the Council the opportunity to resolve the complaint locally before getting involved. The Ombudsman will usually only investigate cases of maladministration (where the Council has failed to handle something correctly) rather than investigate the actual decision the council has made. If you remain dissatisfied, you have the right to have your complaint reviewed by the Local Government Ombudsman, details of which are available on the LGO website, using the following link <http://www.lgo.org.uk/making-a-complaint/>

Where a matter is considered by the Ombudsman service their decision will be final.

The Housing Ombudsman deals with all complaints relating to the Landlord function of social housing. The Housing Ombudsman will only consider complaints that have first been reviewed by a designated person(s) (DP). These are an Elected Member, the local MP or the Tenant Performance and Scrutiny Panel.

Racially Motivated Incident

If the complainant indicates that they believe that their complaint is a racially motivated incident, the racial incident procedure should be followed.

Anonymous Complaints

The Council does not normally accept anonymous complaints. However, where the matter appears to be of a serious nature, it should be passed to the Chief Executive who, in consultation with the relevant member of Corporate Management Team, will decide on whether the matter should be investigated.

Any information provided must be treated in the strictest confidence.

Serious Complaints

If a complaint is made regarding a more serious matter such as a criminal act or alleged gross misconduct by any member of staff or an elected member, the complainant should be politely cut short and advised to address the matter to the Monitoring Officer. If it is difficult to transfer the call or for the person to be dealt with in person at the time, arrangements should be made for the Monitoring Officer to contact the complainant.

Relationship with the Disciplinary Procedure

The Complaints Procedure is distinct from the Council's Disciplinary Procedure for employees. If the nature of a complaint is such that disciplinary action against an employee may be involved, their Director of Service/Unit Manager will decide whether the Disciplinary Procedure will be invoked.

The Chief Executive (in exercising powers under the Complaints Procedure) will not have the power to change a decision of a member of Corporate Management Team or their representative in respect of disciplinary action against an employee.

Role of Monitoring Officer

The Local Government and Housing Act 1989, provides that the Monitoring Officer, has a statutory duty to deal with any proposal, decision or omission by the Council which has given, or is likely to give, rise to maladministration or which is in contravention of any code of practice or rule of law. This Council's Monitoring Officer is the Legal and Democratic Services Manager.

The Chief Executive, in operating this Complaints Procedure, will have regard to the Monitoring Officer's statutory duties under the Act including the duty to report to the full Council should this be

necessary. The Local Government Ombudsman has drawn particular attention to the position of the Monitoring Officer in advice to local authorities.

Role of Chief Finance Officer

The Local Government Finance Act 1988 provides that the “Chief Finance Officer” has a statutory duty to report to the Council on certain financial matters. The Chief Executive, in operating this Complaints Procedure, will have regard to the statutory duties of the Chief Finance Officer.