

NORTH TYNESIDE COUNCIL **CORPORATE COMPLAINTS PROCEDURE**

The Procedure

The Authority provides a Corporate Complaints Procedure for all services it provides which are not covered by the statutory 'social services' complaints procedures or subject to any exclusions. This service is managed by the Customer and Member Liaison Office (CMLO).

A complaint can be described as an expression of dissatisfaction with a service which the Authority provides and which requires a response. However, if a matter can be resolved immediately as part of service provision, there is no need to engage the complaint procedure.

The procedure is set out below with its three stages and respective target timescales:

| Stage | Detail |
|----------------------------|---|
| Stage 1 – Local Resolution | Attempts are made as near as possible to the point of delivery to resolve a complaint. The complaint should be responded to within 15 working days or an explanation and target date given to the complainant if it is likely to take longer. |
| Escalation | The complainant has the right to ask for stage 2 within 10 working days. |
| Stage 2 – Review | A senior manager reviews, attempts to resolve and respond to the complainant within 15 working days or provide an explanation and target date if it is to take longer. |
| Escalation | The complainant has the right to ask for stage 3 within 10 working days. Escalation to stage three is at the discretion of the Senior Complaints Officer |
| Stage 3 – Determination | Referral of the complaint for consideration and a final decision by Appeals and Complaints Committee. |

Guidance on the operation of these procedures is provided below.

Who may complain?

Any service user or person who the Authority is satisfied is acting on behalf of and in the best interests of such a person can make a complaint.

It is expected that the Authority will make reasonable enquiries to satisfy itself as to the standing of any other person, e.g. by asking the service user if they

are aware of and are happy for the other person to pursue a complaint on their behalf. This might be in person or in writing and sensitivity must be used at all times to ensure a person has sufficient capacity to provide that assurance and to avoid any unnecessary or inappropriate distress.

What can be complained about?

A complaint may arise as a result of any service the Authority provides or for which it is responsible. Where services are provided on behalf of the Authority there is an expectation that the service provider will seek to resolve the complaint at stage 1 of the procedure. The service user may then choose to move to stage 2 within the Authority if they are not satisfied. Any complaint can start direct at stage 2 if the CMLO, complainant and service provider agree that it will not be appropriate or reasonable to insist on stage 1.

Complaints may relate to the following:-

- Quality of the service
- Delay in service
- Non provision of service
- Refusal to provide a service
- Communications related to the provision of a service
- Manner and attitude of staff engaged in the delivery of a service

However, this is not an exhaustive list and the CMLO will provide guidance.

What is exempt from the complaints procedure?

The complaints procedure does not apply when:

- the person wishing to complain does not meet the requirements of 'who may complain'
- complaints about the Authority's policy*
- where the same complaint has already been dealt with at all stages of this procedure and/or by the Local Government or Housing Ombudsman
- the complaint is unclear, frivolous or vexatious
- matters which should be dealt with under other proceedings, e.g.
 - disciplinary proceedings**
 - complaints from staff about personnel issues
 - services for which an alternative statutory appeals process already exists; including the statutory 'social services' complaints procedures
- matters over one year old unless there is good reason, at the reasonable discretion of the CMLO, to examine them

(* The Authority's policy includes decisions formally agreed by a Committee, Cabinet or Council. This might extend to incorporate formally approved procedures and well-established custom and practice but there will be a requirement on a person seeking to rely on this exception to demonstrate,

possibly ultimately to the Local Government or Housing Ombudsman, that the issues should be deemed as being The Authority's Policy. Complaints can be accepted if they relate to the interpretation and/or application of policy. Complaints about policy must be responded to at stage 1 and Members will be advised by the CMLO but no further action is taken within these procedures.)

(** Complaints are treated as being about quality of service, not an individual employee or employees. Staff can be named in complaints as most of the Authority's services are provided by its staff. However, the complaints procedure is not a disciplinary tool. Complaints will only be referred for consideration under the separate disciplinary procedures where gross misconduct is alleged; or other serious issues appear to have occurred; or where the individuals have live warnings of a relevant nature. Such referrals shall be made at the discretion of the relevant service manager who will advise the member of staff accordingly. In such circumstance the complaint, or relevant element of complaint, will not be considered further under these procedures and the complainant will be informed accordingly).

Anonymous Complaints

Anonymous complaints should always be recorded within the procedure and examined at stage 1. Relevant service management will have discretion to decide what action it should take. The fact that the complaint is from an anonymous source should not in itself justify a decision not to examine the matter, nor should it rule out referral to other procedures as appropriate.

Key Qualities

This procedure should ensure that people who complain have their concerns resolved swiftly and, wherever possible, by the people who provide the service. The procedure is aimed at being a useful tool for indicating where services may need adjusting. It is not a negative process to apportion blame. It is a positive aid to inform and influence service improvements.

The complaints procedure is well publicised; easy to use; helpful and receptive; non adversarial; fair and objective; based on clear responsibilities; timely; thorough; rigorous; decisive; consistent; comprehensive; sensitive to special or individual needs; adequately resourced and respected by all staff and Members

The Customer and Member Liaison Office (CMLO)

All Directorates and Service Areas are responsible and accountable for the services they provide. The CMLO is responsible for managing the corporate complaints procedure.

In order to contribute fairness and objectivity, the CMLO is independent of operational line management and of direct service provision (other than the complaints service itself and Member Support).

While fostering good working relationships with key parties, e.g. complainants, service areas and other agencies, the CMLO will contribute towards promoting the rights of service users to challenge the Authority with regard to the quality of the services it provides. The CMLO will take an active role in encouraging and facilitating resolution of complaints.

The Office's primary role is to ensure correct application of these procedures. In doing so it will provide independent support and assistance to complainants, service areas and staff and Members.

The procedure is supported by a Complaints Management System (CMS).

Monitoring

The CMLO monitors adherence to the complaints procedure and progress of individual complaints. They ensure records are kept of:

- each complaint received;
- the outcome of each i.e. the decisions made in response to the complaint and any action to be taken;
- record any lessons learned as a result of the complaint and
- whether there was compliance with the time limits;

It also issues satisfaction questionnaires to complainants after their complaints have been completed. Equality and diversity is also monitored by the use of questionnaires.

Regular reports on complaint related activity are available to all service areas and are submitted regularly to the Appeals and Complaints Committee. An Annual Report on complaint related activity is also presented to Cabinet and available to the public.

Record Management and Data Protection

All functions of the complaints procedure must adhere to the requirements of the Data Protection Act, 1998 and the Freedom of Information Act, 2000 and other related requirements.

Handling and consideration of complaints

Introduction

The handling and consideration of complaints consists of three stages –

- Stage 1 – Local Resolution
- Stage 2 – Review

Stage 3 – Determination

Essential to effective complaint handling is certainty of the complaint and desired outcomes from the complainant. Also key is a positive and constructive attitude from staff and the Authority.

Receiving a Complaint

A complaint can be made in any format, e.g. orally in person or over the telephone, or in writing such as in a letter, email or fax.

A complaint can be received by any member of staff or Councillor.

On receiving a complaint, the recipient should endeavour to obtain:

- The complainant's full name and relevant and preferred contact details, such as address, telephone number(s) and email address.
- A clear statement of complaint and what the person wants the Authority to do to resolve the problem (their desired outcome).
- Any background information they think the person who will be dealing with the complaint might need.
- If the complaint is made verbally or they are unsure of a written complaint they should try to recap the details with the complainant to ensure they are correctly understood.

A complaint is deemed to start on the day it is received by a member of staff or a Councillor.

The CMLO should be notified of the complaint as soon as possible. It is then recorded on the Complaints Management System and processed in accordance with these procedures.

Where the complaint is in the form of a letter or other lengthy document, it is appropriate to summarise the complaint on the receipt log and refer to the main document.

The Complainant will then be sent a receipt, leaflet outlining the complaint procedure, and equal opportunities questionnaire.

Providing Advocacy and Support

During the course of making a complaint, a service user may request assistance from an advocate. This should be supported if it will help facilitate full and effective consideration of the complaint. The time taken to appoint an advocate can be reason to extend the response date. The complainant should be informed if this is the case.

Consideration should be given throughout to meeting the varying needs of complainants. This is important in relation to complainants whose first

language is not English, those with communication difficulties and people who are vulnerable, or who find it difficult to make their views heard.

Stage 1 - Local Resolution

At stage 1, it is good practice for staff at the point of service delivery and the complainant to discuss and attempt to address the complaint as quickly as possible. This might include exchange of information and thinking behind decisions and trying to agree a way forward.

It is envisaged that most complaints will be concluded and responded to within 15 working days. If a response is not given within agreed timescales the complainant will have the right to move to stage 2.

Even if a response is verbal, e.g. during a home visit or telephone call, it must be confirmed in writing.

Examination should focus on:

- clarifying the complaint and desired outcome,
- reviewing relevant legislation, policies and practice,
- assessing what should have happened, what did happen and accounting for any differences, and
- any errors or faults should be recognised and remedied.

The response should be 'user friendly' and must inform the complainant that s/he has the right to move on to Stage 2 if s/he is not satisfied. Wording such as the following must be incorporated in the response, usually in the penultimate or last paragraph.

'I do hope you are satisfied with this response to your complaint. If not you can ask for it to be reviewed by a Senior Manger under Stage 2 of the corporate complaints procedure. If this is the case please write, within 10 working days, i.e. by dd/mm/yy, to the Customer & Member Liaison Office at Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside, NE27 0BY, setting out why you are not happy and what you think the Authority should do to resolve your complaint to your satisfaction. If you need assistance in this please ring 0191 643 2280. If we do not hear from you by then we will close your complaint.'

The CMLO must be informed and provided with a copy of the response as soon as possible.

Stage 2 - Review

The complainant should be asked to write out their complaint and desired outcomes, or they can be offered assistance in doing this by CMLO.

The complaint at Stage 2 cannot be fundamentally different from Stage 1. New issues cannot be introduced. A small margin can be allowed to reframe a complaint but it must be essentially the same issue that was examined at Stage 1. New issues will prompt registration of a new complaint, which will start at Stage 1.

Stage 2 should be used as another opportunity to resolve a complaint. It should not be used to simply defend the answer given at Stage 1.

Heads of Service may carry out the reviews themselves or nominate a senior officer to do so. Practice will vary in different service areas. The principle is that a manager will not have been significantly involved in the matter so far and will have sufficient authority to examine and attempt to resolve a complaint. If no suitable officer is available, the situation should be discussed with the CMLO and a suitable alternative identified.

It is good practice for the reviewing officer to ensure they fully understand the complaint. They should consider introducing themselves to the complainant and confirming their role. This can be in writing, over the telephone or in person. Guidance on carrying out Stage 2 reviews is provided by the CMLO.

As in Stage 1, the review should focus on:

- clarifying the complaint and desired outcome,
- reviewing relevant legislation, policies and practice,
- assessing what should have happened, what did happen and accounting for any differences.
- Any errors or faults should be recognised and remedied.

All Heads of Service have delegated authority under the Local Government Act 2000 to make payments up to £5,000 per complaint if they are satisfied that maladministration has occurred and a person has suffered an injustice as a result. Advice and information on remedy is available from the CMLO.

The reviewing officer can consider discussing their findings with the complainant in person. A written response should be provided within 15 working days and contain information about what has been found, what action is proposed (if any) and the right to ask for Stage 3. Wording along the lines of the following should be included in the response, usually in the penultimate or last paragraph.

'I do hope you are satisfied with this response to your complaint. If not you can ask for it to be considered by the Authority's Appeals and Complaints Committee under Stage 3 of the Corporate Complaints Procedure. If this is the case please write, within 10 working days, i.e. by dd/mm/yy, to the Customer & Member Liaison Office at Quadrant, The Silverlink North, Cobalt Business Park, North Tyneside, NE27 0BY, setting out why you are not happy and what you think the Authority should do to resolve your complaint to your satisfaction. If you need assistance in this

please ring 0191 643 2280. If we do not hear from you by then we will close your complaint.'

The Reviewing Officer should ensure that any recommendations contained in their response are implemented and provide written confirmation and supporting evidence to the CMLO.

Stage 3 - Determination

Where Stage 2 of the complaints procedure has been concluded and the complainant is still dissatisfied, s/he will be eligible to request further consideration of the complaint by the Authority's Appeals and Complaints Committee (the Committee). Complaints will only be referred to the Committee in circumstances where the Senior Complaints Officer considers it reasonable to do so.

Further consideration of the complaint can include, in a limited number of cases, early referral to the Local Government and Social Care Ombudsman at the discretion of the Senior Complaints Officer.

The Committee makes the final decision on behalf of the Authority. It has authority to instruct service areas to carry out specific action and/or to provide remedy to resolve a complaint. It should do this by:

- listening to all parties;
- obtaining any further information and advice that may help resolve the complaint to all parties satisfaction;
- focusing on achieving resolution for the complainant by addressing the clearly defined complaints and desired outcomes;
- reaching findings on each of the complaints being considered;
- making decisions that provide practical remedies;
- where complaints are upheld, identifying any consequent injustice to the complainant and to authorise appropriate redress, including financial redress up to a maximum of £10,000;
- recommend any service improvements for action by the service area.

The Committee does not reinvestigate complaints, nor should it consider any substantively new complaints that have not been considered at Stages 1 and 2.

The Complainant and Service Area are invited to prepare statements and relevant background information for the Committee. They are invited to attend to present their respective cases. The CMLO will assist the complainant to ensure they have all reasonable opportunities to present their case, but it will not represent the complainant unless, in exceptional cases, it is specifically requested to and approved by the Committee Chairman. The Committee is not a legal process; neither party can insist upon lawyers to represent them. However, the complainant can be accompanied by a friend or relative for support and assistance during the meeting.

The Committee must be alert to the importance of 'natural justice' by providing a demonstrably fair and accessible process for all participants. Many complainants may find this stage to be a stressful experience. It is important that the Committee is customer-focused in its approach to considering the complaint.

Arrangements for the Committee are set out in the Authority's constitution and administered by Democratic Services within the Authority's Law and Governance Department. In essence, both parties will be invited to submit a statement to the Committee which must be received by Democratic Services no later than five working days before the date of the meeting for circulation to all parties. New or additional information not already considered under Stages 1 or 2 will not be admitted without specific approval by the Committee Chairman. The Committee comprises of up to five Members with a quorum of three. The service area and complainant will be invited to attend. The CMLO will normally, but not always, attend to ensure complainants have all reasonable opportunities to have their complaints considered, and to provide advice and assistance on the complaint procedure and related matters.

The decision of the Committee is final. It is recorded and communicated to the complainant, service area and CMLO within five working days. The complainant must be advised that if they are not satisfied they can consider taking their complaint to the Local Government and Social Care Ombudsman or Housing Ombudsman.

Early Referral to the Local Government and Social Care Ombudsman

Where the presenting facts indicate that reasonable, appropriate consideration of the complaint has been undertaken at Stage 2 and that further consideration by the Appeals and Complaints Committee would not produce a demonstrably different outcome, the Senior Complaints Officer should discuss the possibility of Early Referral to the Local Government and Social Care Ombudsman with the complainant.

There are a number of important safeguards that should be in place before proceeding with this option. Stage 2 should have delivered:

- a very robust examination,
- a complete response,
- all significant complaints have been upheld,
- a clear action plan for delivery has been set out; and/or
- all reasonable and significant desired outcomes presented by the complainant have been met.

The Ombudsman will apply a test of reasonableness to this decision. If the Ombudsman concludes that the early referral was incorrect, they may select from a range of responses, including proposing that the complaint be considered by the Authority at Stage 3.

Early referral will also not restrict the Ombudsman from later consideration of the complaint if they so choose.

Local Government and Social Care Ombudsman (LGSCO)

The LGSCO investigates all complaints about Authority's, other than those that come under the jurisdiction of the Housing Ombudsman, as set out below. Once a complaint has exhausted the Authority's Corporate Complaints procedure the complainant can refer their complaint to the LGSCO for consideration.

Housing Ombudsman (HO)

Complaints about provision and management of the Housing service come under the jurisdiction of the HO. This does not include complaints about homelessness, rent or service charges; the CMLO will advise if this is the case. Once a complaint has exhausted the Authority's Corporate Complaints procedure the complainant can refer their complaint to a 'designated person' (see below) for consideration. If they choose not to do this they must wait eight weeks before referring it to the HO.

The designated person role

A 'designated person' can be any Member of Parliament (MP) and is not restricted to a representative from North Tyneside or Tynemouth parliamentary constituencies. A 'designated person' can also be a North Tyneside Councillor. Finally a 'designated person' can be a designated tenant panel which is a "group of tenants which is recognised by a social landlord for the purpose of referring complaints against the social landlord." The reference to tenants here also includes leaseholders who have a social landlord as their freeholder. To date (March 2018), North Tyneside Council has not yet recognised a tenants' panel, for the purpose of trying to resolve complaints. However this will be kept under review.

The 'designated person' can:

(1) Seek dispute resolution with the different parties - The CMLO will assist the 'designated person' with their consideration of the complaint, by providing previous complaint correspondence (where written permission has been given by the complainant), copies of legislation and procedures. The CMLO may also arrange meetings with Council Officers or the complainant as appropriate as part of the dispute resolution process.

If the complainant is dissatisfied with the outcome of the dispute resolution process, the 'designated person' can decide whether or not to refer the complaint in writing to the HO. If the 'designated person' declines to make the referral, the complainant can, at that point, ask the HO to investigate.

(2) Decide that it would be more appropriate to refer the complaint straight to the HO without seeking to resolve the dispute. If this is done, the referral must be in writing.

(3) Consider the matter but decline to refer the matter to the HO.

If a 'designated person' has refused to refer the complaint to the HO, the HO may consider the complaint without the need for the complainant to wait eight weeks.

All referrals to the HO must be made in writing and be within six months of the Authority's complaints process being completed.

The 'designated person' must always receive written permission from the complainant before referring any complaint to the HO.

The CMLO will provide advice to complainants about the options open to them during the six months after the Authority's complaints procedure has been completed. They will also provide assistance to the complainant, if required, in making the referral to the 'designated person' or HO.