

# Part 4

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# Complaints Procedure Rules

## Guidance Notes

The procedure detailed below is intended to provide a standard framework for the handling of complaints from members of the public.

The procedure is based on the principle that every endeavour should be made by the appropriate Service, in the first instance, to resolve complaints. However, it acknowledges that some complaints will not be capable of resolution (at least to the complainant's satisfaction) at Service level. Accordingly there are further levels to which complaints can be escalated, and if still unresolved, the complainant can refer the matter to the Local Government Ombudsman.

### What constitutes a complaint?

A complaint is an expression of dissatisfaction, however made, about the standard of service, action or lack of action by the Council, or its staff, affecting an individual customer or group of customers. The procedure may also be invoked to deal with complaints about incidents of a racial nature.

Matters which are brought to the Council for the first time, (e.g. notification of broken play ground equipment or an unemptied wheeled bin) should be treated as requests for action and not as complaints to be dealt with under the procedure. Of course, the Council's response, or lack of response, to that first time notification might lead to a complaint if the customer is still dissatisfied.

Complaints can be made through the Test Valley Borough Council website, by letter, email, telephone or in person at the Council offices.

### Remedies

As a general principle, any remedial action should be designed to put complainants in the position they would have been in, had things not gone wrong.

- (a) Council officers will endeavour to maintain, as far as practicable, a consistent approach to remedies.
- (b) Where a Head of Service, or the Chief Executive, finds a complaint wholly, or partially, justified, a suitable apology should be given and appropriate remedial action taken promptly.
- (c) Some complaints may be remedied by providing the service desired by the complainant.
- (d) A change of procedures may be necessary to prevent similar difficulties in the future, either for the individual complainant or customers generally.
- (e) The offer of compensation may also be appropriate. The Council has authorised the Chief Executive, Deputy Chief Executive and Heads of Service, in consultation with the Head of Finance and Revenues and the Leader of the Council, to settle complaints against the Council with the payment of compensation up to £1,000.

- (f) The Head of Service, or the Chief Executive, as appropriate, will be responsible for seeing that remedial action is taken, within the officers' delegated powers. Where the proposed remedy goes beyond the delegated powers, and/or involves compensation in excess of £1,000, the Head of Service or Chief Executive will seek the necessary authority.

### **Notes:**

The complaints procedure outlined below is NOT to be used in the following cases:

- (a) Where other statutory reviews or legal process is available (e.g. Planning Appeals, Benefits Review).
- (b) Complaints from Council employees concerning employer/employee relations.
- (c) Complaints to Members about Council policy.\*
- (d) Complaints by individual members of the public about the conduct of individual officers.
- (e) Complaints by individual members of the public about the conduct of individual Councillors.\*

\* Items (c), (d) and (e) above are to be dealt with as follows:

#### **Complaints to individual Members about the Council policy.**

In the first instance, Members should refer these to the Head of Service concerned, and if the complaint remains unanswered for fourteen days, to the Chief Executive.

#### **Complaints by individual members of the public against members of staff**

In the first instance complaints should be referred to the appropriate Head of Service (or the Chief Executive or Deputy Chief Executive, if it involves a Head of Service). If the matter remains unresolved it should then be referred to the Chief Executive.

#### **Complaints about individual Members of the Council**

The Council has adopted a 'Code of Conduct for Elected Members', which is available upon request from the Council Offices.

The General Purposes Employment Appeals and Ethics Sub-Committee will also consider any written complaints alleging that a Member has broken the code. Contact details and further information are available on request from Council Offices.

## **Complaints Procedure**

### **Complaints Stage 1 – Within the Service and escalation to Head of Service**

Members of the public should be advised to put their complaints in writing, to the Service concerned. However, a complaint received in person or over the telephone should be dealt with as though it were a complaint in writing.

The concern should then be dealt with by either the Head of Service and/or officers responsible for that area, as appropriate. If, in the first instance, the matter is dealt with by an officer, then the complainant has the right to escalate to the Head of Service if they do not feel the initial response they received successfully addressed the issues raised.

### **Record of complaints**

A record of all formal complaints delivered in writing, in person or by telephone, should be kept by each Service.

### **Acknowledgement of complaints**

Complaints in writing should be acknowledged within three working days and a copy of the leaflet 'If you have a complaint' should be sent with that acknowledgement. If a complaint is delivered in person or by telephone, and is not capable of resolution there and then, an acknowledgement should be sent to the complainant in the next post or by email with a copy of the complaint leaflet or a link to the complaints form on the Council's website. Should the complaint be delivered to the 'wrong' Service, the Service should, without delay, forward it to the correct Service and indicate in the acknowledgement to the complainant the action which has been taken.

Where a complaint affects more than one Service, the receiving Service should forward this to the Complain and Communications Officer, who will liaise with the Service(s) concerned to write a response to the complainant.

If the receiving Service feels that the complaint is 'wide enough' to warrant a corporate response, then the complaint should be forwarded to the Chief Executive. The receiving Service will indicate in the acknowledgement to the complainant the action which has been taken.

If there is more than one signature to a letter of complaint, correspondence should be directed to the principal signatory or organiser and copies sent to other signatories.

Anonymous complaints may be investigated at the discretion of the relevant Head of Service, but not dealt with under the Complaints Procedure.

### **Response to complaints**

A written response should be prepared by the Head of Service in consultation with the Chief Executive or Deputy Chief Executive, where appropriate, and sent to the complainant as soon as reasonably practicable (generally within 10 working days of receipt). If there is likely to be a delay over and above 10 working days, the complainant should be given an explanation and told when they can expect to receive a response.

### **Meeting with complainants**

It may be helpful, in achieving a satisfactory resolution of the complaint, to arrange a meeting with the Complainant in order to discuss the matter.

## **Complaints Stage 2 - Chief Executive**

If the Complainant is not happy with the Service's response and wishes to pursue the matter further, the procedure provides for reference to the Chief Executive. Complainants are asked where possible to use the standard methods outlined in the 'If you have a complaint?' leaflet to make a complaint. The Chief Executive will acknowledge receipt of a complaint, consult the relevant Head(s) of Service, and the appropriate Chief Executive or Deputy Chief Executive, and respond in writing to the complainant as soon as reasonably practicable - in general within 15 working days of receipt.

## **Complaints Stage 3 – Where next?**

The Complainant may contact their local ward Member(s) with their concerns at any stage of the complaints process. In addition to this, if, after following the above steps, the complainant is still not satisfied then he or she has further options to pursue. These include:

### **Referral to a Borough Member**

As previously noted, the complainant may contact their local ward Member(s) with their concerns at any stage of the complaints process. In the event that the complaint has not previously been made to the Service concerned, then it will be referred to that Service for action, and then follow the procedure detailed previously. The Head of Service responding to a complaint in these circumstances will send a copy of his/her response to the local Member involved.

### **Panel of Borough Members**

If, after following the above steps, the complainant is still not satisfied then he/she is entitled to have the matter referred to a panel of Borough Members. Such a request should be put in writing by the complainant and addressed to the Chief Executive.

The role of the panel is to listen to the complaint, in a relaxed environment, seeking further clarification or elaboration from the complainant.

The panel will comprise the Leader (or in his absence the Deputy Leader), the appropriate Portfolio Holder (or another member of the Cabinet if the Portfolio Holder is not available) and a local Member (or a Member from a neighbouring ward if a local Member is not available).

A member of staff from Legal and Democratic Services will service the panel.

Prior to the panel hearing, Members and the complainant will be supplied with copies of all relevant documents/correspondence relating to the complaint.

The panel will generally hear the complaint in the absence of the Head of Service responsible for the service referred to by the complainant. The Head of Service would be interviewed by the panel on a separate occasion.

However, if the Head of Service, Chief Executive or Deputy Chief Executive, indicates that separate hearings are likely to lead to injustice, the Chief Executive will consider if, exceptionally, the panel should be convened to hear both sides at the same hearing.

Representations made to the panel will be recorded and copied to the appropriate Head of Service for their written observations.

These observations will be presented to a further meeting of the panel, attended by the appropriate Head of Service, or their representative.

The panel's conclusions will be forwarded to the Chief Executive for appropriate action and notification to the complainant.

## **Complaints Stage 4 – Complaints referred to Local Government Ombudsman**

Complainants have the right, if they choose, to refer complaints directly to the Ombudsman. In such cases it is the normal practice of the Ombudsman to write to the Chief Executive in the first instance to ascertain what action the Council has taken previously. The Ombudsman will not, generally, consider a complaint unless the Council has been given a chance first to investigate and reply to the complaint.

### **Chief Executive to be informed**

If a Council Member is asked to refer a complaint to the Local Government Ombudsman, the Member should inform the Chief Executive. In the event that the matter has not been considered in accordance with the Complaints Procedure outlined above, the Chief Executive will arrange for this to happen. The responding Service will send copies of correspondence with the complainant to the Member referring the complaint, for information.

### **Notification of complaint from the Local Government Ombudsman**

Upon receipt of notification of a complaint from the Ombudsman, the Chief Executive will immediately forward copies of the correspondence to the Service(s) concerned. They should respond in time for the Council's observations to be sent back to the Ombudsman within the given timescale (usually 20 working days).

Upon receipt of comments from the Service(s), the Chief Executive will respond to the Ombudsman.

### **Notification that the Local Government Ombudsman is not investigating**

Upon confirmation that the Ombudsman is not intending to investigate the matter further, Services will be advised accordingly.

### **Local Government Ombudsman investigating – interviews**

If the Ombudsman has decided to pursue the investigation it may suggest a date for interviews with appropriate members of staff and Borough Councillors. The Chief Executive will make the necessary arrangements in consultation with those to be interviewed.

### **Local Government Ombudsman's draft statement of findings**

Upon receipt of the Ombudsman's draft statement of facts, the Chief Executive will circulate copies to each person interviewed asking for any comments within the timescale set by the Ombudsman, and respond accordingly.

## **Local Government Ombudsman's final decision**

Upon receipt of the Local Ombudsman's final decision, the Chief Executive will immediately send copies of it to the Service(s) concerned, to any Members of the Council involved in the matter and to employees interviewed by the investigating officer. (The Ombudsman will have sent copies of the document direct to the complainant and to the Member of the Council referring the complaint if applicable).

If the Ombudsman issues a Finding of Fault Report or determines that the matter is a public interest issue, the final decision document must be made available for public inspection. Notice of its availability will be published by the Chief Executive in the next appropriate issue of the local paper(s).

## **Report to Committee**

Where the Ombudsman finds maladministration, the Head of Service concerned, or the Chief Executive where more than one Service is involved, will consider, in consultation with the relevant Portfolio Holder, whether it is necessary to present a report to Cabinet or an appropriate Committee of the Council, to authorise any necessary action in response to the Ombudsman's findings.

## **Monitoring of complaints**

So that the Council may monitor complaints periodically, in order to decide whether any changes in policy or procedures are required, departments should prepare an annual analysis of complaints (1 April to 31 March), for submission to the Chief Executive who will, in turn, present a report to the appropriate Committee.