

# South Hams District Council and West Devon Borough Council



## Complaints Policy and Procedure

*Working together*



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# Complaints Policy and Procedure

## Introduction

We are committed to delivering high quality, value for money services at the Council and to providing what you need to the standard that you expect.

You may wish to tell us if we have succeeded in delivering a high quality service, a member of staff has impressed you, or just to comment on how we could improve on our services. Please let us know by visiting

<http://www.southhams.gov.uk/article/1805/Comments-and-Complaints>

<http://www.westdevon.gov.uk/article/2345/Comments-and-Complaints>

We realise that sometimes things can go wrong and people are not always happy with the service they receive from the Council. We believe that dealing effectively with complaints is essential to providing good services.

Complaints are extremely valuable to us because they give us the opportunity to put things right if there have been mistakes and, just as importantly, to improve our services to make sure that the same mistakes are not repeated in the future.

## Purpose of our Complaints Policy

The purpose of this Policy is to:

- define what a complaint is
- explain who can make a complaint
- explain how to make a complaint
- explain the process we will follow when dealing with a complaint, so that everyone knows what they can expect
- set out how we will monitor complaints, use information to improve services and identify training needs

## Our guiding principles

We will:

- put you, the customer, at the heart of the process, showing understanding for the issues you raise
- treat all complaints seriously, with an honest and open mind, and do everything we can to deal with them efficiently and effectively
- be open minded and flexible in our approach whilst operating within our processes
- say sorry if we have made a mistake, or something has gone wrong, and we will put it right as soon as possible
- aim to resolve complaints at the earliest opportunity
- keep you informed about the progress of your complaint
- make sure our responses are open and honest, based on the evidence available, address all elements of the complaint, and provide clear explanations for decisions made

- ensure our procedure is equally accessible irrespective of age, disability, gender, gender reassignment, marriage and civil partnership, pregnancy and maternity, sexual orientation, race, religion or belief
- use complaints information in a positive way to identify training requirements, improve processes, and share learning when appropriate to prevent similar occurrences in the future

## What is a complaint?

We define a complaint as:

**‘An expression of dissatisfaction with our service (whether justified or not) which requires a response’.**

A complaint could be in relation to any of the following examples:

- there has been a delay in providing a service
- we have made a mistake in the way we have provided a service
- we have failed to deliver a service – this could relate to quality, standard or service level
- we have not listened properly
- our processes or policies have not been followed
- our legal or regulatory requirements have not been met
- we have not delivered against a commitment or promise
- our staff have not been helpful or have not conducted themselves correctly

## What is not a complaint?

### Informal service issues

We encourage all our staff to work with customers and to try to find a resolution to any expression of dissatisfaction without the need to use the formal complaints process.

In many cases we can resolve an issue very quickly – by putting the problem right straight away. We consider these types of cases as **informal service issues**.

An example might be where a refuse team has not picked up a customer’s bin, but once the team is made aware of this, the bin will be emptied as soon as possible.

You can make an informal complaint, or service request, by discussing your concerns with the member of staff involved, or filling in a form at <http://www.southhams.gov.uk/article/1805/Comments-and-Complaints> <http://www.westdevon.gov.uk/article/2345/Comments-and-Complaints>

However, if informal discussions do not resolve your issues, or you do not consider the informal complaint or service request route to be appropriate, then you can make a formal complaint under the Council’s complaints procedure.

## Complaints not covered by this Policy

There are some complaints that we cannot consider under this Policy because:

- there are other processes more suitable for dealing with them, such as statutory appeal or tribunal process
- they are outside of our control
- there are separate legal or regulatory requirements covering these services
- it would have been reasonable for you to have complained about the matter sooner

Examples are:

- complaints made more than one year after you became aware of the issue (that being the subject of the complaint)
- the conduct of Councillors (see Complaints about Councillors at <http://www.southhams.gov.uk/article/3245/Complaints-Procedure> <http://www.westdevon.gov.uk/article/3692/Complaints-Procedure>)
- where it is the responsibility of one of our partners, or another local Council, or another organisation (we will direct you to the right place)
- where there is disagreement with the result of a process that has its own appeal process (see Appeals below)
- anonymous complaints (see Anonymous Complaints below)
- dissatisfaction with local or Government policies (see Complaints about policies below)
- Unacceptable or vexatious complaints (please see our Policy attached at Appendix A)
- Complaints relating to staff personnel issues, such as disciplinary and grievance issues (see Complaints about staff below).

## Complaints about Councillors

The Council is committed to ensuring that elected Members (Councillors) uphold good standards of behaviour. If you believe that a Borough Councillor (or a Parish or Town Councillor within the Council's area) has not complied in some way with the code of conduct for Councillors, please read the advice and guidance on the Council's website at

<http://www.southhams.gov.uk/article/3245/Complaints-Procedure>

<http://www.westdevon.gov.uk/article/3692/Complaints-Procedure>

on how to complain under the Standards Complaint Process.

## Appeals

An appeal is where a request is submitted to change a decision that has been made.

For some services there are alternative statutory appeal or tribunal processes in place which must be used rather than the complaints procedure. These services include:

- appeals against the refusal of planning permission or planning enforcement
- appeals against statutory notices
- parking appeals
- housing benefit appeals
- homelessness decisions

## **Anonymous complaints**

We will only deal with anonymous complaints where they involve individual or public safety, alleged corruption, or other serious impropriety, and where we have sufficient information to allow an investigation to proceed.

## **Complaints about policies**

You can make a complaint if you consider that the Council has not followed its policies or procedures, or if the Council has not followed the proper processes in adopting or reviewing its policies.

However, some complaints are expressions of dissatisfaction with Government or local policies, as opposed to our failure to meet service standards. We will do our best to explain the policy and the reasons for it. However, if you are still unhappy we may direct you to your MP or your local Councillor for further discussions depending on whether this is national or local policy.

## **Complaints about staff**

We will ensure that staff who are the subject of a complaint, or who may have a clear conflict of interest, will not handle or respond to the complaint. The member of staff will be told about the complaint and asked for his/her views.

Where your complaint involves personnel issues against Council staff, such as disciplinary and grievance issues, the Council will investigate this separately and take any action deemed necessary.

## **Complaints from Councillors or MPs**

Where Councillors or MPs make a complaint on behalf of a constituent, we will deal with the complaint following our normal processes and keep the Councillor or MP informed of progress.

## **Who can make a complaint?**

Anyone who uses, or is affected by, our services can make a complaint including:

- our residents
- people who work in, or visit, the Borough
- local businesses
- community groups

A complaint can also be made by a representative:

- acting on behalf of someone who is unable to make the complaint themselves because of physical or mental incapacity
- where they have been asked to act on behalf of a customer
- acting on behalf of someone who has died

For complaints made by a representative we normally require written authority from the customer (or from the executor or administrator of their estate) to deal with the representative acting on their behalf.

## How do I make a complaint?

You can make a complaint in a way that best suits you. We encourage any customer who has a concern about a particular service to make contact with us straight away. Early complaints give us the best opportunity to resolve an issue quickly.

Complaints can be made in a number of ways:

- online via our complaint form at <http://www.southhams.gov.uk/article/1805/Comments-and-Complaints>  
<http://www.westdevon.gov.uk/article/2345/Comments-and-Complaints>
- by emailing us at [complaints@swdevon.gov.uk](mailto:complaints@swdevon.gov.uk)
- by writing to us at: South Hams District Council, Follaton House, Plymouth Road, Totnes, Devon, TQ9 5NE
- by speaking to Customer Services by phone: 01803 861234
- in person at our offices

## How can you help us when making a complaint?

Please give us as much detail as possible about the complaint including:

- What you are complaining about
- When it happened (or should have happened)
- Why, and how, you think we should have done things differently
- What you would like us to do to put things right
- Tell us your preferred method of contact and your contact details (including your phone details as we welcome the opportunity to talk to you at an early stage about your complaint)

Before submitting your complaint to us, you may want to read the helpful advice on 'how to complain' set out on the Local Government Ombudsman's website ([www.lgo.gov.uk](http://www.lgo.gov.uk)).

Please remember that you should exhaust the Council's internal complaints process before complaining to the Ombudsman (see 'Still not satisfied – Local Government Ombudsman' below).

## Additional help

Complaints must normally be made in writing. However, we are happy to make reasonable adjustments to assist you if you have a disability that prevents you from making your complaint in writing. We can also help if English is not your first language. If you need any support in completing the Complaint Form, please let us know as soon as possible.

## Confidentiality

All responses to complaints at all stages will be sent in writing to your address (home or email) unless specifically requested otherwise. We will maintain the confidentiality of all personal customer information, and not disclose it outside of the Council without your prior permission, unless legally obliged to do so.

## What happens after I have made my complaint?

### Complaints procedure - stage 1

Your complaint will be **acknowledged within five working days** using a standard letter. This letter explains the complaints procedure, timescales and the officer who will be dealing with your complaint.

We welcome the opportunity to talk to you on the phone at the beginning of the process (if you are comfortable with that) to make sure we understand your concerns.

The complaint will be investigated by an appropriate senior officer.

A **response** will be sent to you within **30 days** (consecutive days) of the acknowledgement where this is practical, but where this is not possible because of:

- the complexity of the matter to which the complaint relates
- exceptional or unforeseen circumstances

we will let you know and give an indicative timescale of when a full response will be provided.

The stage 1 response will include information about what you can do if you are not satisfied with the way your complaint has been dealt with.

## Complaints procedure stage 2

You should ask for your original complaint to be referred to stage two **within 3 months** of receiving the response under stage 1.

We will ask you to tell us the reasons why you believe your complaint has not been properly resolved in order that the stage 2 consideration can be focused on the specific outstanding elements of the complaint.

The complaint will be considered by an appropriate senior officer from a different part of the organisation to the officer who dealt with your original complaint.

This stage 2 complaint process will:

- look at whether your original complaint was properly considered
- ensure that key issues you have raised have not been missed
- issue a final decision

A stage 2 response will be prepared and sent to you within **30 days** (consecutive days) of acknowledgement of receipt where this is practical, but where this is not possible because of:

- the complexity of the matter to which the complaint relates
- exceptional or unforeseen circumstances,

we will let you know, and give an indicative timescale of, when a full response will be provided.

The response will include information about how to refer the matter to the Ombudsman if you are still unhappy after the Council's response (see below).

### Still not satisfied - Local Government Ombudsman

If you are not happy with the way in which we handled your complaint, or with our response, you may ask the Local Government Ombudsman to look into your complaint. The Ombudsman will not normally look into a complaint if we (the Council) have not had an opportunity to resolve it through our own complaints process first.

In cases where the Ombudsman has recommended redress or made recommendations, we are committed to following the advice and timescales of the Ombudsman to the best of our ability.

The **Local Government Ombudsman** can be contacted via:

Website: [www.lgo.gov.uk](http://www.lgo.gov.uk)

Tel: 0300 90610614

## What about when we get it wrong?

When a complaint is found to be justified the Council will:

- apologise to you and anyone else affected by the error
- explain what has been / will be done to put the mistake right
- explain how the error occurred and what has been done to prevent it happening again
- redress (if you have suffered loss or suffering) in line with the Local Government Ombudsman's guidance on 'Remedies'.

In some cases an apology and an explanation is all that is necessary and appropriate by way of a remedy. However, we will offer redress where we believe that this will best serve the interests of the customer and customer service. For example, practical action may be considered as part, or all, of a remedy where a complaint is about failure to take some specific action.

Consideration will also be given to any practical action suggested by you.

There will be circumstances where we are unable to put you, as the customer, back into the position you would have been in because of the amount of time lapsed or due to other events which may since have occurred. In such circumstances, we may consider restorative or financial compensation. When considering any redress we will be fair, consistent, and mindful of public money.

## Reporting and learning from complaints

We are committed to learning from complaints and using complaints information to improve our services, and we will look at:

- the type of complaint
- the complaint outcome
- the timescales agreed
- whether timescales were met
- equality information about complainants

We will then:

- publish (anonymised) a summary of complaints and their outcomes on the Council's website
- report to the Council's Senior Leadership Team when a complaint identifies learning points for the future
- report regularly to Councillors on the number and type of complaints received, together with (where relevant):
  - information on the complaint outcomes
  - lessons learnt
  - what we have done to make sure this doesn't happen again
  - how we have improved services as a result of the complaint

## **Equalities and Accessibility**

We will ensure our complaints process is easily accessible to all customers.

We are committed to equality and diversity in employment practice and service delivery. Our aim is to ensure that all our customers are confident of receiving fair treatment and equality of opportunity irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, sexual orientation, race, sex, and religion or belief.

It is our aim to monitor complaints wherever possible, across all protected characteristics of discrimination to enable us to get a clear picture of where there may be unintentional barriers to services. We are committed to learning from, and improving, services as a result of this monitoring activity.

## **Evaluation**

In order to ensure that our Complaints Policy is effective and that we are doing what we have set out in this Policy, we will ask randomly selected customers for feedback once the complaints process has been completed. This is not related to the outcome of the complaints process but to how we dealt with your complaint.

## Appendix A

### Unreasonable Customer Behaviour and Vexatious Complaints Policy

#### Introduction

The Council is committed to providing what you need, in the way you want, and to the standard you expect. We believe that dealing effectively with complaints and customer requests for information is essential to providing good services.

We will process complaints in line with our policy, and we will make every effort to achieve a satisfactory outcome for each customer.

Unfortunately, in a minority of cases, people pursue their complaints or requests for information in a way that is unreasonable. In some instances, this can have a negative impact on the handling of their complaint or request. It can also have a significant impact on our resources and on our ability to provide services to our other customers.

This procedure covers Complaints and Freedom of Information (FOI) requests. In respect of FOI requests the Council will have regard to the guidance issued by the Information Commissioner's Office 'Dealing with vexatious requests'.

#### Purpose

The purpose of this document is to:

- define unreasonable customer behaviour
- explain what we consider to be unreasonable customer behaviour and how we will deal with it
- define vexatious requests
- explain what we consider to be vexatious requests and how we will deal with these

#### What is unreasonable customer behaviour?

We define unreasonable behaviour as:

**'Unreasonable complainants are those who, because of the nature or frequency of their contacts with the Council, negatively impact our ability to deal effectively with their (or other people's) complaints.'**

Unreasonable behaviour may include one or two isolated incidents, as well as unreasonably persistent behaviour, which is usually an accumulation of incidents or behaviour over a longer period.

We differentiate between 'persistent' customers and 'unreasonably persistent' customers.

Customers making a complaint can be 'persistent' where they feel we have not dealt with their complaint or request properly and are not prepared to leave the matter there. For example, it is not unreasonable for a customer to criticise how their complaint is being handled when our published procedures are not followed.

However, some customers may have justified complaints or requests, but may pursue them in inappropriate ways, such as lengthy phone calls, emails expecting immediate responses, detailed letters or emails every few days. Others may pursue complaints or requests which have no substance, or which have already been considered and dealt with. Their contacts with us may be amicable but still place very heavy demands on staff.

Situations can escalate, and in a few cases customers can become abusive, offensive, threatening or behave in a way that we may consider to be unacceptable.

In these circumstances, we may have to restrict access to our premises or staff.

### **Examples of unreasonable behaviour**

Examples of what we might consider to be unreasonable behaviour includes:

- refusing to specify the grounds of a complaint, despite offers of assistance
- changing the basis of the complaint/request as the matter proceeds
- denying or changing statements made at an earlier stage
- covertly recording meetings and conversations
- submitting falsified documents from themselves or others
- making excessive demands on the time and resources of staff with lengthy phone calls, emails to numerous council staff, or detailed letters every few days, and expecting immediate responses
- refusing to accept the decision or repeatedly arguing points with no new evidence
- persistently approaching the council through different routes about the same issue
- causing distress to staff - including use of hostile, abusive or offensive language, or an unreasonable fixation on an individual member of staff
- making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced
- insisting on the complaint being dealt with in ways which are not compatible with the adopted complaints procedure or with good practice
- introducing trivial or irrelevant new information at a later stage
- raising many detailed but unimportant questions and insisting that they are all answered
- submitting repeat complaints/requests with minor additions / variations and/or where the customer insists we consider these as new complaints

### **What is a vexatious request/complaint?**

We define a vexatious request or complaint as one:

**‘that is likely to cause distress, disruption, irritation, without any proper or justified cause’.**

A vexatious request may refer to an ongoing complaint or include one or two individual requests for information, or may form part of a wider pattern of vexatious behaviour. For example, if there is a wider dispute or it is the latest in a lengthy series of overlapping requests.

However, we will not automatically refuse a request (or to deal with a complaint) simply because it is made in the context of a dispute or if it forms part of a series of requests.

We will consider each request for information on its own merits and we will not automatically refuse a request because the individual may have caused problems in the past. We will ensure that we consider whether the request (and not the requester) is vexatious, with our focus being on the request itself.

Where a request is considered to be vexatious we may make the decision not to provide the information.

### **Examples of vexatious requests/complaints**

Examples of what we might consider to be vexatious requests / complaints are shown below. The list is not exhaustive and for a request or complaint to be considered as vexatious it is likely that more than one of the examples is relevant:

- Submission of obsessive requests with very high volume and frequency of correspondence.
- Requests for information that has already been seen or where there is a clear intention to reopen issues that have already been considered.
- Where complying with the request would impose significant or disproportionate burden on the Council in terms of expense, and negatively impact our ability to provide service to others. In this situation, we will also consider Section 12 (exemption where cost exceeds the appropriate limit) of the Freedom of Information Act.
- Threatening language or actions whereby it would be unreasonable for the Council to tolerate it no matter how legitimate the complaint or request
- Where the customer states that the request / correspondence is actually meant to cause maximum inconvenience, disruption or annoyance.
- Where the request / complaint lacks any serious purpose or value. An apparent lack of value would not usually be enough on its own to make a matter vexatious, but may do when considered with other examples.
- Harassing the Council - this could include very high volume and frequency of correspondence, or mingling requests with accusations and complaints.

### **Managing unreasonable complainant behaviour and vexatious requests/complaints**

Before taking any decision to designate a Customer’s behaviour as unreasonable or vexatious, we will be satisfied that:

- the complaint / request is being, or has been, investigated properly
- we have reached the right decision in the right way
- communications with the customer have been adequate
- the Customer is not now providing any significant new information that might affect the Council's view on the complaint /request.

When it is necessary to designate the Customer as behaving unreasonably the Council will consider:

- offering a meeting between the Customer and a Senior Officer to explore scope for a resolution of the complaint and to explain why their current behaviour is seen as unreasonable
- sharing this policy with the Customer and warning the Customer that restrictive actions may need to be applied if their behaviour continues
- where the behaviour is so extreme that it threatens the immediate safety and welfare of staff, we may report the matter to the police or consider taking legal action. In such cases we may not give the Customer prior warning.

### **Options that we may take**

Any action that we take will be proportionate to the nature and frequency of the complainant's current contacts. The following options may be suitable, taking the Customer's behaviour and circumstances into account. Options include:

- restricting contacts with staff to specified days and limited times
- limiting the Customer to one form of contact (telephone, letter, email etc)
- requiring the Customer to communicate only with one named member of staff
- requiring any personal contacts to take place in the presence of a witness and in a suitable location
- requiring the Customer to enter into an agreement about their future behaviour before their case proceeds
- refusing to register and process further complaints about the same matter
- refuse all future contact with the Customer

Where a decision on the complaint has been made, we may tell the Customer that all communication is now ended and that future correspondence will be read and placed on the file but not acknowledged, unless it contains material new information.

### **Operating the policy**

If a decision is taken (by an officer of the Extended Leadership Team in consultation with a member of the Senior Leadership Team) to apply restricted access, we will write to the Customer with a copy of this Policy to explain:

- why the decision has been taken
- what it means for his / her contacts with the Council
- how long any limits will last,
- when and how any decision to restrict access will be reviewed, and
- how the Customer can appeal against the decision.

## **Reviewing decisions to restrict access**

A review of the decision will be made by the officer who made the original decision at the specified time, and the restrictions will be lifted unless there are good grounds to extend them.

We will tell the Customer of the outcome of the review. If limits are to continue, we will explain our reasons and state when the limits will next be reviewed.

## **Appeals against the Option that the Council has taken against the Customer**

An appeal should be made within one month of the decision made (for example, to restrict access or ceasing contact with the Customer) and it will be considered by an Officer of the Extended Leadership Team who was not involved in the original decision to restrict access.

## **Referring complainants to the Local Government Ombudsman (LGO)**

Where relations between the Council and Customer sometimes break down badly while complaints are under investigation, and there is little prospect of achieving a satisfactory outcome, the LGO may, exceptionally, be prepared to consider complaints before the Council's internal complaints procedure has been exhausted.

A Customer who has been treated as behaving unreasonably may make a complaint to the LGO about it.