



CABINET - 8 JULY 2002

REVISION OF CORPORATE COMPLAINTS PROCEDURE

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to submit for approval a revised corporate complaints procedure for the investigation and resolution of complaints.

2. INTRODUCTION

- 2.1 This Council has had a Complaints Procedure since 1978 which was updated in 1984.
- 2.2 A major review was undertaken in 1991 when the principles underpinning the present procedure were established.
- 2.3 Further minor reviews were undertaken in 1995 and 1997.

3. BEST PRACTICE

- 3.1 The Commission for Local Administration in England (Local Government Ombudsman service) continues to be regarded as the authority for the management of corporate complaints submitted to local authorities. Complaints against individual Councillors in respect of breaches of the newly adopted model Code of Conduct are now dealt with by the Standards Board and in due course, will be dealt with by the local Standards Committee, recently set up. The Commission's guidance on "devising a complaints system" for corporate complaints was revised and reissued in 2001. The amended procedure recommended in this report complies with this new guidance.
- 3.2 A British standard on complaints management was established in 1999. The standard is intended for public and private service use. Again the procedure recommended by this report is in accordance with the principles of this standard.

4. REASONS FOR REVISION OF PROCEDURE

- 4.1 Since 1991 there have been a number of legislative changes which impact on the management of corporate complaints within the Council. These include-
- Human Rights Act 1998
 - Disability Discrimination Act 1995
 - Race Relations Amendment Act 2000
 - Freedom of Information Act 2000
 - Data Protection Act 1998

- 4.2 Once the Complaints Procedure had been considered against these Acts it was found that no matters of principle required changing. Reference to them has however been included for completeness.
- 4.3 The procedure has also been updated to reflect the various administrative and procedural changes which have arisen since the last update. As these are therefore only minor in nature no comparison with the previous procedure has been given. The main two changes are the removal of complaints against Elected Members which is now part of the Code of Conduct and details on Local Settlements.

5. REVISED PROCEDURE

- 5.1 The suggested revised procedure for corporate complaints is attached as Appendix 1.
- 5.2 The revised text will be incorporated into the series of complaints leaflets and reissued. The leaflets are

Complaints procedure	The procedure in full
A brief guide to the complaints procedure	A shortened version
How to complain	A guide to assist the public
Complaints procedure- A guide for employees	A guide to inform and assist employees
How to complain (large print)	For the use of those with impaired vision

- 5.3 These leaflets will also be available in

- Braille
- On CD
- On cassette
- On the internet

6. CONCLUSIONS

- 6.1 A review of the complaints procedure in light of present best practice and changes of legislation has established that only minor revisions are necessary to the adopted complaints procedure.

7. FINANCIAL IMPLICATIONS

- 7.1 There are no financial implications to revising the procedure.
- 7.2 There are costs for revising and reissuing the series of leaflets in various forms. These are however only a little higher in costs than the regular cost of reprinting previously issued leaflets.

8. CONSULTATIONS

- 8.1 The revised procedure has benefited from contributions from specialist officers and the general comments from services.

9. RECOMMENDATIONS

- 9.1 The revised corporate complaints procedure as shown in Appendix 1 be approved.

FOR FURTHER INFORMATION PLEASE CONTACT:

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Appletree Court
Lyndhurst
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BACKGROUND PAPERS: None

REVISED COMPLAINTS PROCEDURE 2002 - DRAFT

Introduction

If anyone does not receive the service they expect or a poor service, they should complain – how else is the service provider going to learn other than by feedback?

The New Forest District Council has had a complaints procedure since 1978. It has been revised several times since to ensure it always meets present day best practice and public expectation.

The procedure was last updated in 1997. This current revision has taken account of the various recent changes in legislation including the Human Rights Act 1998, Data Protection Act 1998 and Race Relations Amendment Act 2000.

This complaints procedure can be used for any type of complaint (with exception of complaints against Councillors - see further below) whether they are minor or serious, and for any service provided by this Council and partners. We recognize that complaints give us important customer feedback and therefore greatly benefit the Council and the community it serves.

Please note there is a separate complaints procedure regarding Councillors, details of which can be obtained from the Council's Monitoring Officer who is contactable on 023 80285285 (see further details under Elected Members).

Aim

Our aim is to swiftly investigate all corporate complaints with impartiality, finding solutions locally whenever possible to the satisfaction of both complainant and the Council.

Responsibility

The responsible officer for the complaints procedure is the complaints officer on behalf of the Chief Executive.

What is a complaint?

It is not easy to define as individual perceptions differ widely. However for our purposes a complaint is "an expression of dissatisfaction with a service or employee of New Forest District Council."

More specifically a complaints is where –

- The Council has not done something it has a duty to do or normally does
- The Council has done something it has no right to do or does not normally do as a matter of established practice
- The conduct or behavior of a council employee is unsatisfactory
- Established levels of service delivery are not reached
- A person does not understand or is not informed of why or how a situation arose or exists
- An adopted and known procedure is not followed
- Maladministration is alleged

Key principles

All complaints will be investigated in accordance with the following principles-

- We acknowledge the complaint within 3 working days and inform the complainant that it will be investigated. We will give the name of an employee to whom further enquiries can be made.
- We inform the complainant of the result of the investigation within 15 working days and say who the complainant can appeal to if dissatisfied
- We keep the complainant informed. If an unavoidable delay occurs we will notify the complainant
- We record the complaint and file all relevant papers for future easy access. The record includes
 1. Full name and address of complainant
 2. Details of the complaint including relevant dates
 3. Action taken
 4. Employee dealing with the complaint
- Records will be kept for 6 years
- We keep all information confidential particularly names and address that can identify a complainant, site or complaint. However, we may be obliged to disclose some information under certain statutory provisions. All correspondence in the control of the Council is marked confidential. Complaints received are regularly analysed by services to ensure any problems or adverse trends are tackled without delay
- The Council's Corporate and Finance Panel annually considers a report on the investigation of corporate complaints to the Chief Executive. [Complaints received direct by Services are investigated in accordance with this procedure and should be reviewed annually by the Service.](#)
- The procedure is widely publicised.

Relevant legislation

The procedure covers complaints which may involve consideration of the following-

- **Disability Discrimination Act 1995**

This requires all providers of goods, services and facilities to ensure the public are able to access their services by removing, altering or providing a means to avoid physical barriers. Complaints can therefore be submitted in any of the following ways-

 1. By phone
 2. in writing
 3. by email
 4. by fax
 5. minicom
 6. internet website
 7. by a third person on behalf of
 8. in person

Information on the complaints procedure will be provided in the following formats-
braille, large print, tape, CD, by discussion with an employee, internet website. The information can also be translated into another language on request.

- **Data Protection Act 1998**

The provisions of this Act allow individuals access to information held about them. If you wish to obtain such information you must apply in writing to the Council's Data Protection Officer Geoff Bettle, Town Hall, Avenue Road, Lymington SO41 9ZG. Individuals are accorded a procedure with which to complain if aggrieved in respect of the actions of the Council with regard to the use of personal data.

- **Human Rights Act 1998**

The rights and freedoms under the human rights legislation are in themselves not new and public services have been working in accordance with them for at least 30 years.

The investigation and resolution of complaints dealt with in accordance with this Complaints procedure will adhere to the Human Rights Act.

- **Regulation of Investigatory Powers Act 2000**

The Act establishes the circumstances in which a local authority may lawfully carry out certain acts of surveillance of individuals or their property.

Individuals have the right to complain of actions of the local authority that are not in accordance with the Act.

- **CCTV – Privacy issues**

Details regarding privacy issues and CCTV can be found in New Forest District Council Code of Practice for the Operation of a Close Circuit Surveillance System. A copy of the code of practice is available for viewing at all Information Offices from 1 July 2002. Complaints and queries should be registered with Customer Services 023 80285959.

- **Race Relation Amendment Act 2000**

This procedure can be used for any complaint against the council on any race or equality issue. In particular it is the procedure to be used in respect of this Council's Race Equality Scheme.

- **Public Interest Disclosure Act 1998**

Any allegations of fraud, corruption or financial impropriety of an employee of this Council should be referred to Chris Malyon, Director of Resources 023 80285701.

Level	Type of Complaint	Responsible Officer
1	<p>First, single-service complaints</p> <p>A complaint is sent to the supervisor or manager of the service where the complaint arose. Full details, including name and address of complainant, must be given. The supervisor or manager is responsible for ensuring the complaint is acknowledged immediately, recorded and investigated thoroughly. A full reply is sent to the complainant within 15 working days. The letter will inform the complainant that if he or she is not satisfied with the outcome of the investigation he or she may appeal to the Director.</p>	Supervisor / Manager of Service

2	<p>Second or more serious single-service complaint</p> <p>Each Director will investigate any complaint against his or her directorate that he or she wishes to investigate personally and those where a complainant has appealed to him or her from Level 1. In the reply the Director will inform the complainant that if the outcome is not satisfactory, an appeal can be made to the Chief Executive.</p>	Director (or nominee)
3	<p>Complaint to Local Government Ombudsman and Members of Parliament</p> <p>Complaints where a complainant is dissatisfied with the investigation of a Director</p> <p>Complaints involving more than one service</p> <p>Any complaints the Chief Executive wishes to investigate personally</p> <p>The Chief Executive's reply will inform the complainant that if he or she is not satisfied with the outcome, an appeal may be made to the Local Government Ombudsman.</p>	Complaints Officer on behalf of the Chief Executive
4	<p>Any very serious unresolved complaint</p> <p>On rare occasions when very serious or highly sensitive complaints would benefit from an open and independent investigation, the Chief Executive may convene a panel of up to four elected members chaired by someone independent of the Council but held in esteem by the community at large. The elected members would be chosen for their breadth of experience and lack of involvement in the complaint or the service being complained of. The panel would consider a report prepared by the Complaints Officer and listen to the complainant and the service concerned. The Chief Executive will make any final decision after having considered any recommendation from the Panel.</p>	Chief Executive

Elected Members

Complaints against elected members can be submitted to this Council's Monitoring Officer, the Local Government Ombudsman or the Standards Board for England. For guidance on the most appropriate route please contact the Monitoring Officer (023 80285285).

Putting things right

The complaints procedure is designed to put things right if they have gone wrong. If this fault has led to an injustice to a complainant a local settlement should be considered.

Local Settlement

A local settlement can be defined as "the action taken to restore a complainant to the situation he would have been in if the fault had not occurred". This is not always possible. Where subsequent actions or just the passage of time prevents restitution other actions or financial compensation may be an appropriate local settlement. Local settlements must be appropriate to the injustice and may be reduced where a complainant has contributed to an injustice suffered.

Action to make a local settlement

If the Council is at fault it will apologise for the error. Sometimes this may be all that is required.

The Council will then consider if restitution is possible. This could be the reconsideration of an application, the repair of property, or other remedies. The views of the complainant should be sought on the most appropriate remedy particularly if this is not already apparent from the preceding investigation.

In the particular case of Planning application determinations, once the decision has been made the Council is legally bound by that decision and the application cannot be reconsidered. However, other remedies may be sought.

If restitution is not possible action which could reduce the injustice may be considered.

If practical action is not possible suitable financial compensation should be considered. This would include any actual cost incurred by the complainant as a direct result of the fault except where the costs were unnecessarily incurred or are excessive.

Injustice is often not easy to quantify. Where this is the case a reasonable settlement will need to be assessed based on

- The injustice suffered
- Any contributing factors by the complainant
- Distress suffered (including stress, anxiety, frustration, uncertainty, worry, inconvenience)
- Length of suffering
- Lost values
- Lost opportunities

Any payment for time and trouble (separate and distinct from the distress described above) should be assessed separately. Anyone pursuing a complaint would be expected to incur some inconvenience and cost. Therefore a time and trouble payment would not be appropriate in all cases. Help and advice should be sought

from the complaints office. Any amounts paid by way of compensation would need approval in line with the Council's Scheme of Delegation and Financial Regulations.

How to complain

A number of leaflets have been published to help the public submit a complaint to the Council. These are available at all Council offices or from any Council employee. Copies have also been distributed to organisations within the district such as Citizens Advise Bureau, Town and Parish Councils and libraries.

All leaflets are available in alternative formats.

Further advice and help on how to submit a complaint can be obtained from the complaint's office.

Complaint's Office
New Forest District Council
Appletree Court
Lyndhurst
SO43 7PA
Telephone (023) 8028 5560
Fax (023) 8028 5366
E-mail: helena.renwick@nfdc.gov.uk