

COMPLAINTS PROCEDURE, COMPLAINTS AND VEXATIOUS POLICY

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Complaints Procedure

Introduction

The Council works to a Quality Policy and strives to get things right first time and to continually improve services. However, from time to time the public or our service users have complaints about the administration or procedures of the Council. Sometimes the Council may be in the wrong but on occasions complaints may not be justified. The Council recognises that it is not subject to the jurisdiction of the Local Government Ombudsman but has adopted this Policy to ensure that complainants can feel satisfied that at the very least their grievance has been properly and fully considered.

Where a complainant has made a complaint to an outside regulator such as the Monitoring Officer, External Auditor, Police or Information Commissioner, it will not normally be appropriate for the Council to respond through this Complaints Policy, but to fully cooperate with that regulator.

There may be rare instances where a complainant unnecessarily takes up a large amount of resources. This can have a detrimental effect on the Council's ability to provide its services to others. At the end of this Procedure, the Council sets out what is considered to be acceptable levels of contact with it and how instances of unreasonably persistent or vexatious contact will be handled.

Whereas a complaint is an expression of dissatisfaction about a standard of service, sometimes people are not dissatisfied but wish to simply make a comment, for example, a suggestion for how a service can be improved. We always appreciate such comments and will act on them where we agree.

Where we have provided a good service, we also appreciate a compliment. This is always passed on to the member of staff or councillor concerned. Everyone likes a "bouquet".

1. The Importance of Complaints

1.1.1 Complaints are valuable because they provide a chance to put things right if there has been an error, and to make sure that the same mistake is not repeated.

1.2 It is essential that complaints are dealt with positively. The Town Council is anxious to hear people's comments and is committed to making full use of complaints information to contribute to continuous service improvement (part of our Quality process). Important information about areas for improvement can be obtained both from a single complaint and from patterns of complaints, highlighted by detailed monitoring.

2. Definition of A Complaint

2.1 A complaint is *any expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Town Council or its staff which affects an individual customer or group of customers.*

2.2 What the complaints procedure will deal with: -

The complaints procedure will deal with matters of maladministration, which is if the Town Council does something the wrong way, fails to do something it should do or does something it should not do. Some examples include:

- Neglect or unjustified delay.
- Malice, bias, or unfair discrimination.
- Failure to tell people their rights.
- Failure to provide advice or information when reasonably requested.
- Providing misleading or inaccurate advice.
- Inefficiency, ineffectiveness, bad and unprofessional practice or conduct.

2.3 What the complaints procedure will not deal with: -

- Complaints for which there is a legal remedy or where legal proceedings already exist.
- Complaints about employment matters - the Town Council operates alternative procedures to deal with grievances or disciplinary matters against staff.
- In most cases, the Town Council is prohibited from investigating a complaint against a councillor which may suggest a potential breach of the Code of Conduct (or associated protocol. Such complaints need to be referred to the Monitoring Officer at Cheshire West and Chester Council.

3. Equal Opportunities

3.1 The Town Council is committed to equal opportunities (see Equalities Policy). Complaints feedback will be used to highlight discriminatory practices, and to promote equality of opportunity.

3.2 Complaints by members of the public of discrimination and/or harassment against the Town Council will be dealt with through the complaints procedure unless it is a complaint that should be dealt with through a statutory procedure.

4. Complaints Officer

4.1 The Complaints Officer for the Town Council is the Chief Officer. Their main duties are:

- i. The day-to-day operation and management of the procedure, including providing a reference point for staff queries on informal complaints.
- ii. To oversee, and undertake where necessary, the investigation of formal complaints at the first stage, within the relevant time scales.
- iii. To maintain a record of all complaints received including details of the nature of the complaint, action taken, outcome, and time taken to resolve.
- iv. To identify improvement points arising from any complaints.
- v. To identify staff training issues.

If the complaint is about the Chief Officer, it should be addressed to the Mayor, who will ensure it is independently investigated.

5. Stages of The Procedure

5.1 The stages of the procedure are designed to provide the complainant with a thorough and fair means of redress and to provide a framework for officers to work within. However, there may be occasions when a complainant makes an approach in a different manner and it is important that the procedure does not in itself become a barrier to effective communication.

5.2 Everyday problems, queries and comments

The Council receives queries, problems and comments as part of its day to day running, and they should not all be regarded as complaints. These are routine and expected and are generally resolved quickly to the customer's satisfaction. If someone is dissatisfied with the original service or response they received and wishes to take the matter further then the issue should be recognised as a complaint.

5.3 Informal Complaint

During the course of daily business, minor complaints are made to officers about the services we provide. These will usually be dealt with by the relevant officer as appropriate. It is not appropriate for every comment to be treated as a formal complaint, as a complainant usually wants a "quick fix" and an apology if the Council is at fault. Every effort will be made to deal with these problems immediately, either by providing information, instigating the appropriate action or explaining a decision. If the Council is unable to help or disagrees with the complaint, it will state clearly why it takes that view.

5.4 Formal Complaint (First Stage)

A customer may wish to make a formal complaint directly, or may be unsatisfied with the outcome of an informal complaint and may wish to take the matter further. This will be recorded as a complaint and passed to the Chief Officer to investigate. If the complainant remains unsatisfied with the response, they should be informed of their right to take the matter further.

Timescales

Acknowledgement - by return of post or by email within 1 day.

Investigation completed - 14 days.

or Progress Reports Issued - 14-day intervals (or other person appointed by Chief Officer or through the Mayor, if the complaint is about the Chief Officer).

Investigating Officer: Chief Officer or appointed person.

5.5 Review of Investigation and Complaint (Second Stage)

If the complainant is not satisfied with the Chief Officer's response, they should be advised of their right to have the complaint referred to the Councillors' Panel who will review the complaint.

Timescales

Response by the Chief Officer - 14 days (or another officer if the complaint is about the Chief Officer).

Appeals Committee (if thought necessary) - Convened within 14 days.

Review completed - 14 days thereafter.

Investigating Officer: Chief Officer or appointed person.

5.6 Councillors' Panel

If the issue still remains unresolved, the complainant should be notified of his or her right to have the matter referred to a panel consisting of the Mayor (or the Deputy Mayor if the complaint refers to the Mayor), and two other Councillors appointed by the Council who have not had previous involvement with the complaint or are referred to in the complaint. There will also be a note-taker, nominated by the panel, who will also not have had previous involvement in the complaint.

The outcome of all formal complaints dealt with by the panel will be advised to the Council.

The Complainant may attend the committee, opt not to attend or to attend but not present a verbal case.

- The Chairman will introduce everyone present and will explain the procedure.
- The complainant or representative will outline the grounds for complaint.
- Members will ask any questions of the complainant.
- If relevant, the Chief Officer or appointed person will explain the Council's position. Members may ask any questions of them.
- The Council's representative and complainant will be offered the opportunity of having a last word (in that order).
- The Council's representative and complainant will leave the room while members decide whether or not the grounds for the complaint have been made. If a point of clarification is required, both parties will be invited back into the room.
- If the Committee are able to reach a decision at the time, the parties will be invited back to hear the decision. In other cases, the Committee will re-convene and announce the decision within 14 days.
- As soon as possible after the decision has been made, it and the nature of any action to be taken, will be communicated in writing to the complainant.

6. Unreasonably Persistent or Vexatious Complaints

This part of the policy identifies situations where a complainant, either individually or as part of a group, or a group of complainants, might be considered to be habitual or vexatious.

The procedure will not be used to impede the ability of anyone to have reasonable access to services provided, nor will it be assumed that because a customer/complainant has submitted a large number of enquiries they are vexatious or unreasonably persistent. In some cases, their persistence may be necessary to receive sufficient response from the Council. Any new complaints from persons who have previously come under this policy will always be treated on their merits.

Unreasonably persistent and vexatious complainants are those individuals who, because of the nature or frequency of their contacts with the Council hinder our ability to effectively deliver services to our customers. Some examples of behaviour and actions taken by these individuals are listed below, however this is not an exhaustive list.

These are some of the actions and behaviours which can prove problematic. Single incidents may be unacceptable, but more often the difficulty is caused by unreasonably persistent behaviour that is time consuming to manage and interferes with proper handling of the issues being raised.

These behaviours can be:

- Refusing to specify the grounds of the service request, despite offers of assistance.
- Refusing to co-operate with the process for handling service requests.
- Refusing to accept that certain issues are not within the scope of the Council.
- Insisting on the request being dealt with in ways which are incompatible with adopted procedure(s) or with good practice.
- Making unjustified complaints about staff who are trying to deal with the issues, and seeking to have them replaced.
- Changing the basis of the service request as the issue proceeds.
- Denying or changing statements made at an earlier stage.
- Introducing trivial or irrelevant new information at a later stage.
- Raising numerous, detailed but unimportant questions and insisting they are all answered.
- Covertly recording meetings and conversations, otherwise than allowed by law at a public meeting.
- Submitting falsified documents from themselves or others.

- Adopting a 'scatter gun' approach: inappropriately pursuing parallel service requests on the same issue with a variety of organisations or with a variety of individuals within the Council.
- Making excessive demands on the time and resources of staff with lengthy phone calls or e-mails to numerous council staff or detailed letters every few days, and expecting immediate responses.
- Submitting repeat requests with minor additions/variations that the service user insists make these 'new' issues.
- Refusing to accept the decision or outcome; repeatedly arguing points with no new evidence.
- Making numerous, repetitious and unreasonable contact because an individual is unable or unwilling to accept or agree with a policy decision or approach which has been adopted by the Council or individual services and functions.
- Adopting a violent or aggressive demeanour towards staff or councillors.

The term complaint in this policy includes requests made under the Freedom of Information Act 2000 and the Data Protection Act 1998 and reference to the Complaints Procedure is, where relevant, to be interpreted as meaning a request under those Acts.

Any of the above behaviours will trigger the beginning of this process. The Chief Officer or other appointed person will normally write to the individual. The letter will clearly explain the actions the Council may take if their behaviour does not change.

Very rarely, in extreme or rapidly escalating cases, it may be necessary to immediately impose restrictions to ensure the safety of staff members or councillors (see also Dignity at Work Policy). This is a decision which will be taken by the Chief Officer or other appointed person with the utmost consideration for circumstances surrounding the incident(s).

Any restrictions imposed will be appropriate and proportionate, and examples of some options most likely to be considered are:

- Requesting contact in a particular format e.g., letters only.
- Requiring contact to take place with a single named person only.
- Restricting telephone calls to specified days and times; and/or a particular member of staff.
- Restricting the number of times a customer may be in contact over a certain time period.

The decision to restrict or stop a person's access to the Councils offices and officers can only be taken by the Council.

A letter will then be sent to the complainant outlining the decision. All letters will include:

- Why the decision has been taken.
- What action will be taken.
- The duration of that action.
- The date of review for the action; if required.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of the Councils staff, other options will be considered; for example, reporting the matter to the Police or taking legal action.

The Chief Officer will keep a record of all individuals who have had this procedure applied to them. Decisions taken under this procedure are subject to the Data Protection principles and the Human Rights Act. The position will be reviewed after 3 months if requested by the complainant.

Any person who is subject to this part of the Policy has the right of appeal to the Appeals Committee.

7. Anonymous Complaints

Anonymous complaints should be referred to the Chief Officer, and may be acted on at their discretion, according to the type and seriousness of the allegation. They are difficult to deal with fully as the ability to discuss them with the complainant or to ask further questions is denied.

8. Resolution and Remedies

The aim in dealing with all complaints is to reach a resolution or remedy that satisfies the complainant, whether it is the remedy they were originally seeking or not. Where a complaint is found to be at all justified, consideration may need to be given to the question of an appropriate remedy. An explanation or an apology will always be needed.

9. Contact

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