



Complaints Procedure for Community and Town Councils

Introduction

1. **This guidance is issued by One Voice Wales for consideration by community and town councils in Wales. It has been prepared following discussion with the Public Services Ombudsman for Wales and has received his endorsement.**
2. Since the 1st April 2006 the Public Services Ombudsman for Wales has had responsibility for investigating complaints of maladministration against community and town councils in Wales. This responsibility is separate to the Ombudsman's role in investigating allegations of misconduct against individual councillors and focuses on complaints regarding the standards of services provided by the council, e.g. provision of a community hall, playground, burial ground, public clock.
3. The collation, analysis and resolution of complaints should be an essential element in the efficient administration of all councils. The making of a complaint should be seen as an opportunity to measure the effectiveness of the services provided by the council and not as a threat. Adopting a defensive or obstructive attitude to complainants is counterproductive and projects a poor image of the council.

What is a complaint?

4. This can be a difficult concept to define but it is suggested that for the purposes of their complaints procedure councils use the Ombudsman's definition:

"A complaint is an expression of dissatisfaction by one or more members of the public about the council's action or lack of action or about the standard of a service, whether the action was taken or the service provided by the council itself or by a person or body acting on behalf of the council."
5. This is a reasonably comprehensive definition but the following are not to be regarded as complaints:-
 - An initial request for a service
 - Complaints about third parties: e.g. about a community group for which the Community Council is not responsible
 - A request for an explanation of a decision.
 - A representation about a major policy decision e.g. setting the precept
6. Customers may of course complain that the council has failed, despite assurances, to provide the service requested.

7. Complaints about the conduct of councillors should always be reported to the Monitoring Officer of the Unitary Authority in the first instance, who will then advise the complainant about making a complaint to the Public Services Ombudsman for Wales.

Why good complaints handling matters

8. An efficient complaints handling procedure will work to the benefit of the council. At a basic level it will help to ensure that customers receive the service to which they are entitled and bring into focus areas where service delivery may be falling below the standards set. It will identify staff development issues and highlight opportunities for service enhancement. Prompt resolution of problems identified will enhance the image of the council and turn potential critics into admirers. Addressing complaints may also help to ensure that all customers are dealt with on the basis of equality.
9. On the other hand, inefficient or long-winded complaints procedures may reinforce the complainant's view that the council is poor at providing services and may result in a complaint to the Ombudsman.

The elements of a good complaints handling system

10. Each council should develop a complaints handling procedure which suits their particular circumstances. It should be well-publicised in material about the council's services, such as a newsletter. Clear guidance should be provided about how a customer can make a complaint and how the complaint will be dealt with.
11. Any procedure, however, should include these basic elements.
 - Councils should keep a record of complaints in a standard format either on paper or by electronic means.
 - Staff receiving a complaint should be empowered to resolve the issue, if possible immediately, and be aware that more serious issues should be referred elsewhere for resolution.
 - The procedure should:
 - a. encompass all the services provided by or on behalf of the council.
 - b. be clearly defined, straightforward and easily understood by customers, staff and members.
 - c. set manageable time constraints. Councils should ensure that if the time target cannot be met, the complainant will be told why.
 - d. be fair and objective and sensitive to the needs of the customer.
 - Any investigations needed to resolve a complaint should be undertaken by a senior member of staff or by a councillor acting on the authority of the council and should be undertaken with minimum delay commensurate with thoroughness.
 - Since it can be difficult to look into things that happened a long time ago, Councils may wish to state in their policy that they will normally expect complainants to bring their complaint to them within 6 months of becoming aware of the problem. They should, however, be prepared to be flexible when there are exceptional circumstances.
 - Customers should be fully informed of the progress of their complaint and should be advised of the outcome.

- Those dissatisfied with the outcome or progress should be directed to complain to the Public Services Ombudsman for Wales
12. One person (clerk or councillor) should be given the responsibility of ensuring the effective operation of the procedure. He/she should regularly analyse the data to spot lessons for service improvement and should report periodically to full council.
13. Appropriate training should be provided for staff and councillors.

The three stage system

14. Each council should adopt a system to suit its particular circumstances but the following three stage system is recommended:

Stage 1: attempted resolution by frontline staff.

Stage 2: attempted resolution by the Clerk.

Stage 3: the complaint is considered by a panel of councillors (or possibly full council).

15. In a large number of councils the clerk is the sole employee and may be regarded as frontline staff under stage 1. Stage 2 would then be redundant. Complainants have the right to refer their complaint to the Ombudsman if they are dissatisfied with the outcome at Stage 2, rather than proceed to Stage 3, and should be advised accordingly. In serious cases, frontline staff should be aware that the matter should be fast-tracked to Stage 3 at the earliest opportunity.
16. Stage 1 is an opportunity for an informal and reasonably quick resolution of a complaint. Sometimes it is the officer responsible for the original action or decision who is able to resolve the complaint. But at the more formal stage or stages it becomes important to separate roles, and the complaint should always be considered by someone who did not have any involvement in the action or decision complained of.
17. Where complaints might involve disciplinary matters care should be taken to separate the resolution of the complaint and any disciplinary procedures.

At what stage might the Ombudsman become involved?

18. The Ombudsman may investigate a complaint if he is satisfied:
- (a) that the matter has been brought to the attention of the council ...and
 - (b) the council has been given a reasonable opportunity to investigate and respond to it.
19. The test will have been met at the latest, once the council has made a formal response to the complaint. The Ombudsman also has discretion to investigate even where this test is not met, if there are particular circumstances which make it reasonable to do so.
20. Councils now have a duty to inform members of the public about their right to make a complaint to the Ombudsman and have a duty to do so in responding to any complaint made to the council. The possible stages at which the Ombudsman is likely to become involved, if a council has adopted a complaints procedure based on the preceding guidance, are set out in the table below. However, it should be borne in mind that the Ombudsman

does have discretion to accept a complaint at any time if it appears reasonable to him to do so in the particular circumstances.

<i>Stage reached in council's complaints procedure when complaint made to Ombudsman</i>	<i>Ombudsman's likely involvement</i>
Complainant has not raised matter with council at all	Ombudsman will not accept complaint save in exceptional circumstances
Complainant has raised matter with council but it has not been recognised and dealt with as a complaint	Ombudsman likely to intervene, especially if matter appears serious
Authority still dealing with complaint at stage 1	Ombudsman unlikely to intervene unless authority apparently dealing inappropriately with serious complaint or taking too long
Complainant not satisfied with authority's response at stage 1	Ombudsman likely to refer most complaints back to authority for consideration under a formal stage of its procedure if stage 1 has been dealt with properly and promptly
Authority still dealing with complaint at first formal stage of its procedure	Ombudsman unlikely to intervene unless authority apparently dealing inappropriately with complaint or taking too long
Complainant not satisfied with outcome at any formal stage	Ombudsman will normally accept complaint for consideration (not necessarily leading to an investigation)