

Local Government
OMBUDSMAN



Guidance on running a complaints system

GUIDANCE ON GOOD PRACTICE

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Guidance on running a complaints system

Context

We last published guidance on running a complaints system in 2002. Since then, we have seen an improvement in councils' customer care services and complaints handling. Many have benefited from training provided by us and by others on complaints handling. This has informed the Commission's decision to introduce Council First. This means that from April 2009 the Local Government Ombudsman will consider complaints only after councils' procedures have been completed (subject to some exceptions). We believe, therefore, that it is time to review and update our guidance to reflect these developments. We also want to reflect changes in the law and the use of technology that have affected the way people approach their councils to seek services, and the way those services are provided.

There is now a lot of guidance available on complaints and how to deal with and learn from them, some of which we have had a hand in preparing. This guidance note is specifically aimed at councils and those charged with setting up or reviewing complaints systems within those councils.

Complaints systems differ according to the size and make-up of councils and the areas they serve. This note does not describe a single ideal complaints system. It offers guidance on what to consider in order to construct and maintain a system that best serves the needs of the council and its service users.

We do not consider that management of complaints is an uncomfortable addition to service provision but an integral part of that provision. Complaints systems are not mechanisms for apportioning blame but an important part of a council's learning and development. Complaints can be a rich source of information and learning about how a council's performance is perceived and how it can be improved. What we recommend is a clear, accessible and flexible process that forms part of service provision and does not overwhelm individuals, departments or other council processes. It is also helpful to record comments, concerns and compliments as a way of gathering performance information. Many service users want to make comments that they wish to be taken into account but that are not complaints.

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The purpose of a complaints system is to put right what has gone wrong and to learn from it.

Principles for effective complaint handling

Accessibility
Communication
Timeliness
Fairness
Credibility
Accountability

Features of an effective complaints procedure

Accessibility

It is well publicised.

It is easily accessed and understood, by staff and by the public.

Communication

It includes early direct contact with the person making the complaint and continued contact through the complaints process.

There is effective communication between council staff and between the council and its partners regarding complaints.

There is effective communication where the complaint involves more than one body.

There is an effective recording and feedback loop so that improvements can be made.

Timeliness

It takes no longer than 12 weeks from receipt to resolution.

Fairness

It is clear about roles and responsibilities.

Complaints are dealt with in an open-minded and impartial way.

Responses are proportionate; one size does not fit all.

Credibility

It is managed by someone who can take an overview and can implement changes in the complaints system.

It includes a robust review by someone who has the independence and authority to ask questions, get at the facts and recommend changes in response to complaints.

There is effective leadership that ensures that the complaints system and learning from it has a high profile across the council.

Accountability

Information is provided in a clear and open way and is properly managed.

There is follow-up to ensure any decisions are properly and promptly implemented.

There is regular monitoring to ensure timescales and satisfaction levels are met.

There is periodic review of the process, to keep it up to date and keep the public informed.

What is a complaint?

1. There is sometimes confusion about what constitutes a complaint. When does a request for service or an objection to a decision or a policy become a complaint? Widely differing approaches to definitions can cause problems with record keeping and performance management.
2. We suggest that councils have a definition and that it includes the following: an expression of dissatisfaction about a council service (whether that service is provided directly by the council or by a contractor or partner) that requires a response. There is no difference between a 'formal' and an 'informal' complaint. Both are expressions of dissatisfaction that require a response.
3. When does a request for a service become a complaint? Some councils log notifications of single service failures, such as a missed refuse collection, as complaints whereas others log these as service requests. Collecting information about this kind of avoidable contact is a useful way of assessing service delivery. Whether the contact is logged as a service request or complaint, there should be clarity and consistency and some mechanism for ensuring that repetition of such failures can be identified, as they may indicate more systemic problems.
4. Sometimes service users make complaints that are disagreements with local or national policies. Councils need to decide how to deal with these. They can provide useful intelligence for the council. As far as the service user is concerned they are complaints and the service user will expect a response.
5. Some councils say that contact from a service user is a complaint if the service user says it is. While this is temptingly simple, care must be taken with a definition such as this as many service users may wish to make a complaint without actually using the word. It could also cause confusion if the service user says it is a complaint when in fact it is, for example, an objection to a planning application that has not yet been determined, or a comment in response to a consultation exercise. It is helpful if staff are encouraged to clarify with the service user whether or not they are seeking to make a complaint and what their expectations are.

Features of an effective complaints procedure

Accessibility

It is well publicised

- > Information on how to complain is available in a clear and understandable form to all.
 - > It is on relevant websites, preferably with a link from the home page and a contact email address for enquiries and complaints.
 - > A clear leaflet, written in plain English, is available through contact centres.
 - > Facilities are available for complaints to be made in different ways: by email, in writing, in person or by telephone.
 - > Advice about what to do about service failures is included in information for new residents (including migrants from other regions and countries).
 - > New staff are given information on the process.
 - > Existing staff are provided with periodic updates.
1. Many councils provide newspapers or magazines for their residents that include information or articles about feedback and complaints systems. This is an effective way of getting the message across.
 2. Many people approach the council with concerns or complaints that do not relate to council services. It is helpful if front line staff have access to sufficient information to point these people in the right direction.
 3. Complaints may be made anonymously but may raise issues of serious concern. Councils need to decide how to address these, as they may require some consideration.

It is easily accessed and understood, by staff and the public

4. Whether complaints systems are located within departments or centrally, the complainant should not have to struggle to identify which part of the council (or which contractor or partner) the complaint should be sent to. That should be clear in all publicity.
5. Staff need to be able to give clear and accurate advice about comments and complaints and to provide assistance for (or know where to direct) those who may struggle with accessing the procedure and making a complaint. This might include targeting information at identifiable groups, providing visual information for those with learning difficulties or literacy problems, making systems accessible to children and young people, and using advocacy services.

We have seen some very imaginative approaches to encouraging engagement in the process by children and young people and those with additional needs, such as those with learning difficulties or literacy problems. For example, one council produced an information card that is the size and shape of a bank card; others have produced information leaflets with clear visuals to help those who have difficulty with reading.

6. Councils must ensure that their procedures comply with statutory duties as set out in equalities and human rights legislation. This is not a question of meeting minimum requirements but of taking an imaginative and informed approach, with the help of user groups, to making systems more accessible.
7. Groups that underuse services can be identified and specific action plans developed.

For example, following a decision to encourage children and young people to make more use of our service, we met and took advice from stakeholders, targeted web pages, identified and trained staff, fast-tracked complaints and developed different ways of receiving and responding to complaints.

If staff are clear and confident about the process, people will use it.

8. There are also software packages available that assist communication with people who may have sight or hearing loss, or literacy or learning difficulties.
9. Staff also need to know where to refer complaints that are not within their scope. It is too much to expect all staff, particularly in larger councils, to know the limits and extent of responsibility of each department. Sometimes it is better to let the department deal with the complaint direct. However, front line staff should be able to take responsibility for finding out enough to be able to advise a service user about making a complaint, rather than simply leaving the service user to make contact with a different department or partner. Also, if the person complaining has more than one issue – for example, a request for service (“my rubbish hasn’t been collected”) and a complaint (“this happens every week”) staff should be able to separate out the different elements and direct them to the right people/departments.

We have come across instances where service users have asked council reception staff how to make a complaint and have been given a copy of the LGO’s leaflet rather than directed to the council’s own process.

10. Although we will not investigate most complaints until they have been through all of a council’s procedure, where an individual has determined that they wish to approach the Ombudsman then it is not for the council to prevent that. However, if staff are clear and confident about the council’s own process this can encourage service users to access that first.
11. Staff can also give information about our expectation that complaints go through all of the council’s procedure before coming to us. If it is clear to the council that there is nothing more to say on the complaint then this can be made clear to the person making the complaint, and the chief executive can ask us to consider it without it having been through all of the council’s procedure.

Communication

It includes early direct contact with the person making the complaint and continued contact through the complaints process

1. Direct contact with the person making the complaint can be seen as a time-consuming and dispensable part of the process. Our experience tells us that such contact is in fact very valuable to the council and to the complainant. It helps to clarify whether the issue is a complaint, what outcome the person is seeking and whether that outcome is achievable. It is a way of finding out whether the person needs assistance to pursue the complaint and to agree a way of dealing with and responding to the complaint. Contact should be in a way and at a level that suits the needs of the complainant.

For example, one council, with the help of an advocate, agreed a way of taking a complaint from a service user with autism that involved using large sheets of paper to draw a time line using pictures and symbols to show significant events. This could then be translated into a statement of complaint that the service user and the council could understand. The council was also aware of the disruptive effect on that person of having different people to deal with, and was able to keep the number of people involved directly with him to a minimum.

2. Early contact can also establish whether the matter might best be resolved through mediation or conciliation and whether the person making the complaint agrees. Staff will need to be clear about whether and how these services can be provided.
3. This does not mean that we advocate personal contact as a replacement for more formal written responses. Sometimes these have to follow so that the council can address all of the issues and the person making the complaint can give full consideration to the council's position.
4. Many councils have established single contact centres for all of their services. It is helpful if contact centre staff are trained to assist people who wish to make a complaint. This might seem a straightforward task, but if staff are trained to identify and help summarise complaints and discuss desired outcomes, it can reduce the time spent clarifying issues later in the process. It also avoids service users having to restate their complaint to different people.

Problems can be avoided if guidance for front line staff is clear.

There is effective communication between council staff and between the council and its partners regarding complaints

5. Our experience tells us that complaints that start badly often escalate, placing unnecessary demands on the council and the complainant. Also, it is not helpful if the person making the complaint has to deal with a number of different people. Councils should identify a single named contact for the complainant.

Communication between council staff

6. Where councils have established call centres there can be tensions between front line staff and departmental staff when complaints are made and there is a lack of clarity about who should be responding and how.

For example, a service user repeatedly called the council's contact centre with the same complaint. It was the relevant department's responsibility to respond directly to the complainant. Each time, details were taken and passed on and assurances given that it would be dealt with by the department. Contact centre staff were given no information about whether it was being dealt with, by whom and how, and so could do no more than 'lobby' the department to provide a response.

7. Problems can be avoided if guidance for front line staff is clear about what action they can take in situations such as this. We would recommend that councils provide a means for front line staff to raise such issues with managers so that they can be addressed with departments at management level.
8. It is also helpful if complaints about the same subject can be dealt with in a co-ordinated way to avoid situations such as the following.

A council changed one of its policies in relation to care leavers. Staff were informed by email and amended their practice accordingly. Care leavers had no prior warning of the change and complaints followed. There was no mechanism for putting these complaints together and looking at the circumstances surrounding the policy change and its effects.

Effective complaints systems do result in improvements to services.

9. Communication between departments can also cause difficulties. From a service user's point of view it is all one council. However, staff are often not in a position to give commitments or undertakings for their colleagues. They should have access to sufficient information to be able to help the service user to pursue their complaint with the relevant service.
10. Many councils have arrangements in place at management level to consider and resolve difficulties relating to blockages in complaints; for example by having protocols that provide for a nominated manager to ensure responses are provided.

Communication with partner organisations

11. Our special report *Local partnerships and citizen redress* provides detailed guidance on drawing up a complaints protocol with partners (see our website at www.lgo.org.uk/publications/special-reports/). The key recommendations are that:
 - > when the partnership is first created, there should be clarity regarding accountability for different parts of the work that will be carried out;
 - > there should be a clear statement as to who is responsible for handling complaints and providing redress;
 - > there needs to be effective communication with those who use the service, so that they understand what they need to do in the event of something going wrong; and
 - > there should be strong commitment to learning from complaints, so that services may be improved.
12. We have seen examples where partners have had different complaints procedures and timescales from those of the council. This often happens where housing provision is made through arms length management organisations (ALMOs). Particular care needs to be taken where there is more than one ALMO involved in providing a service within a single council's area. It is up to each

organisation to establish its procedure but it is important that those involved in the partnership are aware of any differences and can explain these to users.

There is effective communication where the complaint involves more than one body

13. Often service users focus upon the council and expect any complaints to be dealt with through its procedure. If the partner or contractor is fulfilling a statutory duty for a council then the council will be ultimately responsible for ensuring complaints are properly resolved. Hence the importance of clarity between partners on any differences between procedures that may exist.

14. Sometimes complaints are made that involve more than one body. Whether or not there is a formal partnership arrangement between the two bodies involved, the council should endeavour to have suitable arrangements for communication between the bodies concerned to ensure that the person making the complaint receives a proper response. This avoids the situation where the complainant is passed between organisations.

15. Where complaints are made that involve both the council and NHS bodies, we expect there to be effective arrangements in place for joined up processes and co-ordinated responses, in line with the relevant regulations.

There is an effective recording and feedback loop so that improvements can be made

16. Effective complaints systems do result in improvements to services. However, research carried out in 2008 by the National Audit Office into health and social care complaints found little evidence of systems being in place to ensure learning was properly disseminated. We often find that remedies are provided for the person making the complaint but there is insufficient consideration of the wider implications. Sometimes changes are implemented in a single part of the council but there is no system in place to ensure that learning is shared.

17. Some council staff who have attended our training courses have expressed frustration that they have not received feedback (whether good or bad) on complaints dealt with by their council that they have been involved in. It is very helpful for staff to be kept

informed of outcomes on complaints and any changes or learning that might result. This applies equally to complaints dealt with by councils and by the Ombudsman.

18. It is also helpful if the feedback loop incorporates information gathered from front line staff about complaints, questions and comments that they have received. If this is collated and reviewed on a regular basis it can be a valuable source of information about how users view service provision. It provides a mechanism for identifying emerging issues that might be addressed before they escalate into complaints.

Timeliness

It takes no longer than
12 weeks from receipt
to resolution

1. This is a maximum timescale within which we would expect complaints to be dealt with. It does not apply to complaints made under the *Listening, responding, improving* procedures for adult social care complaints. We expect these complaints to be dealt with in a timely manner and in line with the regulations but there is no set timescale. For these complaints, councils should have regard to the guidance set out in *Listening, responding, improving*.¹
2. We believe that two stages will normally be appropriate to deal with most complaints. Again this does not apply to the process provided for within the adult social care procedures. Our concern is not so much with the number of stages but with the timeliness with which complaints should be addressed. Any more complex arrangement is likely to impact adversely on a timely response. We consider that 12 weeks (from receipt of the complaint to final response) allows sufficient time for a council to deal with a complaint. We expect most complaints to be dealt with more quickly than this though there may be some very exceptional cases that require more time. This may be evident at the start of the complaint and, where possible, timescales should be agreed with the complainant. It is good practice to keep a complainant and others involved informed of progress.
3. Some complaints may need to be given priority so systems should allow for this; for example, where there is a clear, serious and continuing detrimental effect on the service user or the service that needs to be addressed.

¹ *Listening, responding, improving: a guide to better customer care*, published by the Department of Health, February 2009 (www.dh.gov.uk)

Our concern is not so much with the number of stages but with the timeliness of responses.

4. Adult and children's care services have statutory procedures and guidance and some councils base all of their procedures on these models. There are significant differences between the two statutory procedures and relevant staff need to be clear about what these differences are and which procedure applies. The information provided for the service user needs to be clear about this and, if it involves stages, what stage they are at and how to progress the complaint should they remain dissatisfied.
5. Complaints may also be connected with other procedures, such as legal or disciplinary proceedings. Often, in the interests of fairness, a response cannot be provided until those proceedings are complete. But this is by no means always the case and responses to complaints should not be unnecessarily delayed simply because other procedures are involved.

We have come across examples of complaints being 'stuck' at the first stage of a complaints process because progression to the second stage is considered to be some kind of failure. We have also dealt with complaints where the pressure to respond to the first stage within a target time has resulted in a poor quality, defensive response that results in the complaint escalating. In some cases this adds to the original complaint a fresh grievance about the way the complaint was handled.

6. We would suggest that councils consider flexible approaches to complaints that are not process driven and do not include numerous stages that require service users to deal with different people and restate their case. We also feel that multiple stages can merely deter staff from taking full responsibility for resolving the complaint.
7. Published complaints procedures should include target timescales.

8. Councils should have adequate systems in place to track progress and follow up delays and reasons for them. These provide useful information on whether timescales and resources are realistic. To ensure that time targets do not result in poor responses, there needs also to be quality monitoring of responses to complaints that do not escalate as well as those that do. Some people are put off pursuing reasonable complaints by the responses they receive in the early stages. This is not a satisfactory outcome for the service user or the council.

Fairness

It is clear about roles and responsibilities

Role of staff

1. All council staff should be aware of the complaints process and how to access it. They should be clear about what their roles are within that process and what they can and cannot do. In the Appendix there are lists of questions to be addressed regarding front line staff and those with investigative responsibility. These can be used as checklists when procedures are being set up or reviewed. Staff can be asked whether they are clear about the extent and the limits of their role by using these questions.
2. Front line staff have a crucial role, not only in ensuring access to the complaints procedures but in capturing information about things that may be going wrong. In our experience their knowledge, gathered from everyday contact with service users, can be undervalued. Those councils that perform well tend to have effective communication loops that allow front line staff to capture and pass on information about emerging issues.
3. Complaints systems need also to be fair to staff who may be the subject of complaints, either directly or through the service they provide. They should be informed of complaints made against them and given the opportunity to comment. It is helpful to draw attention to the complaints system as a mechanism for learning rather than for apportioning blame. The system should provide clear information about, for example, whether they may have a friend or representative with them during any interviews.

It is unfair to staff and service users to expect those staff who are named in complaints to respond to those complaints.

4. It is unfair to staff and service users to expect those staff who are named in complaints to respond to those complaints. They should, of course, be informed and given an opportunity to comment, but it is not appropriate for them to be responsible for providing the response to the person making the complaint. It raises questions about the impartiality and independence of the complaints system.
5. Staff may also be service users and may themselves wish to make complaints against their own councils about service failures that they have experienced (not as members of staff but as citizens). The system should address this by making it clear that such complaints will be dealt with sensitively.

Role of councillors

6. Councillors have an important role to play in ensuring their constituents are aware of what procedures exist to assist them in raising concerns.
7. Councillors can also be in a unique position to see the effects of decisions on constituents and can contribute by passing on what they learn through the proper internal procedures and reviews. Councillors can also play an important part in reviewing performance on complaints through scrutiny procedures.
8. Some councils use a panel of councillors as the final stage in their complaints procedures. However, this can significantly add to the time taken to deal with a complaint. Such reviews, whether by councillors or others, should take place within the 12-week timescale. This does not apply to adult social care complaints where specific reference to a review panel stage has been removed and there are no stated timescales for responses. The expectation is that they will be proportionate and timely.

It is possible through leadership and training to encourage a positive and open-minded approach to complaints.

9. Councils need to consider what, if any, priority should be given to complaints/questions referred by councillors. Staff can struggle with competing demands. It is unfair to give priority to complaints where a person has approached a councillor over those that have been made directly. Protocols for staff on dealing with complaints and councillors' queries need to take this into account.
10. Councillors, in representing individual constituents, can give the impression they are seeking special treatment for that constituent. This can put staff in a difficult position. Staff at every level should have clear support and guidance from senior management in applying policies in a fair way. Councillors may also benefit from training/guidance in the use of the complaints procedures.
11. Complaints about councillors' conduct should not be dealt with through the general complaints process. Such complaints should be reported to the council's monitoring officer and consideration given to whether the matter should be considered by the council's standards committee.

Role of service users

12. Some councils involve service users in consideration of complaints. This helps to put communities in control, to appreciate the issues and to improve local accountability. Service users can contribute a great deal based on their experience. Care must be taken regarding confidentiality and clearly defined roles and responsibilities. It is helpful to have a mechanism for training, and possibly mentoring, service users who play a role in complaints to ensure that there is clarity about what they can and cannot do.

For example, some ALMOs appoint tenants onto their complaints panels. This helps them to ensure tenants' views are not lost. However, it would be inappropriate for them to deal with complaints made by close friends or neighbours. They would lay themselves open to accusations of bias.

Complaints are dealt with in an open-minded and impartial way

13. We all like to believe that we are open minded and impartial when dealing with complaints. It is understandable that people should feel defensive and upset if a complaint is made about them or the service that they provide. Complaints can be a source of worry because, if things have gone seriously wrong, they can result, albeit in a very small number of cases, in disciplinary action.

14. People are often reluctant to make complaints because they do not want to cause upset, or they are concerned that it will affect the way they are treated in future. All of this needs to be taken into account when designing or reviewing a complaints system. This can be done by giving appropriate assurances about confidentiality. Where a response to a complaint cannot be provided without disclosing complainants' details, clear advice should be given to staff about how to respond. It may be possible to have the complaint dealt with by a different department.

15. Defensive responses often arise out of a culture of blame within an organisation. It is possible through leadership and training to encourage a positive and open-minded approach to complaints. Periodic seminars, training events and on-line discussions can help to support staff and maintain a positive approach to complaint handling.

Responses are proportionate; one size does not fit all

16. Fairness does not necessarily mean treating everyone the same. We recommend early direct contact with those making complaints as a means of clarifying the complaint and the desired outcome. It also helps in the process of providing proportionate responses. Contact with complainants should continue throughout the process and responses should be tailored to the individual; some will like formal written contact while others prefer telephone or email.

17. Many complainants want simply the recognition that something has gone wrong and an apology for it. In the past there has been concern about the implications of apologising and the suggestion that this is an acceptance of liability. Section 2 of the Compensation Act 2006 makes clear that an apology in itself does not amount to an admission of negligence or breach of statutory duty. There have also been questions raised about financial

redress. Section 92 of the Local Government Act 2000 gives councils a general power to take remedial action, including paying compensation. Such payments can be an appropriate form of redress for service failures. Staff need to be clear about when they can make such payments.

18. There may be occasions, in more serious cases, where the council's insurers are involved. This is unlikely to be routine and it should not get in the way of providing redress where fault has been acknowledged.
19. We have published guidance on remedies for complaints (see our website at www.lgo.org.uk/publications/guidance-notes/). This sets out the principles and gives some examples of how to apply them.
20. Some service users can be unreasonably persistent or make unreasonable demands on councils through the complaints procedures. Councils should have clear guidance for staff on how to deal with these. We have published a guidance note on unreasonably persistent complainants and unreasonable complainant behaviour to assist councils in the preparation of their own procedures (see our website at www.lgo.org.uk/publications/guidance-notes/).

Credibility

It is managed by someone who can take an overview and can implement changes in the complaints system

1. Service users need to believe in complaints systems if they are going to use them. This means ensuring that the systems are clear and timely and also responsive. Much of this credibility can be established through application of the principles above. To be credible the complaints system needs to be effectively managed by someone with sufficient authority to:
 - > ensure that those principles are applied;
 - > set standards;
 - > ensure they are met;
 - > challenge where they are not; and
 - > make changes where necessary.

Senior managers should take real ownership of complaints processes.

It includes a robust review by someone who has the independence and authority to ask questions, get at the facts and recommend changes in response to complaints.

There is effective leadership that ensures that the complaints system and learning from it has a high profile across the council

2. We have investigated complaints where the staff dealing with the complaint have been involved in the service being complained about and have provided defensive responses to the person making the complaint. As a result, they have failed to consider whether any valid points were being made. Such complaints often become stalled in circular correspondence and can be time consuming and unsatisfactory for all involved.
3. It is also unhelpful to a service user to have their complaint dealt with by a sympathetic member of staff who is powerless.
4. Those systems that provide for a review by someone with no previous involvement, who has the authority to ask questions and take a fresh view are more effective in providing resolutions (even where those resolutions are simply explaining decisions clearly and with some degree of independence). They also make systems more credible to the service user and can save time and resources. The reviewers should not be called 'ombudsmen' because this causes confusion.
5. Complaints systems should not be add-ons or afterthoughts. They are a way of obtaining feedback about how a council is performing and what lessons can be learned. We have come across councils where responsibility for the system is unclear and staff feel unsupported when dealing with complaints. The ownership of the system should be at a high level within the council. Effective leadership should focus not only on how the system works but on ensuring that systems are in place so that lessons are learned. This means that recording of complaints outcomes should have a high profile and results should be reviewed at a high level on a regular basis.
6. Senior management should take real ownership of complaints procedures. They should have a system for receiving reports on complaints and outcomes and ensure that any learning and improvement from complaints is properly disseminated and implemented.

7. It is helpful if councils publicise changes they make as a result of complaints. It shows that they are responsive and ensures that those making complaints and staff responding to them can make a difference.

Some councils have council-wide recording systems so that all departments can keep up to date and learn from each other. Others use their scrutiny procedures or cross-departmental management reports to ensure that information is effectively shared. Both are useful ways of raising the profile of the positive outcomes that effective complaints systems can achieve for councils and for service users.

Accountability

Information is provided in a clear and open way and is properly managed

1. Making information about councils' policies and decision making easily accessible can help greatly with responses to complaints. Many complaints can be dealt with by providing explanations and information about decisions.
2. However, there are also complaints that involve information that should not be disclosed because it would breach privacy rights. This can be a particularly difficult area where, for example, complaints are made about the care of a vulnerable adult; the rights of the person making the complaint do not overrule the vulnerable adult's rights to privacy. These are difficult issues that often have to be dealt with on a case by case basis.
3. Some complaints are about a failure to provide information requested (failure to comply with freedom of information legislation and guidance) or the provision of too much information (in breach of data protection legislation or guidance). This can result in confusion about who is responsible for responses. Staff will need access to advice from the council's information issues specialist. The Information Commissioner also provides advice (www.ico.gov.uk).

Responses to complaints should be clear and evidence-based.

There is follow-up to ensure any decisions are properly and promptly implemented

4. Responses to complaints should be clear and evidence-based. Staff who are investigating complaints need access to confidential storage facilities and clear guidance about: the importance of record keeping; who should have access to information regarding complaints; and when information should be destroyed. This guidance should take into account public rights of access to information and rights to privacy, as set out in the relevant legislation.
5. We have been critical of councils where recommendations for remedies have been agreed but not implemented. This is sometimes due to there being no single person identified as being responsible for ensuring implementation of decisions. This can be resolved.

Some councils use their councillors or committees to ensure that decisions are followed up by requiring periodic reports on progress. Some councils produce an action plan that identifies what action will be taken, by whom and when. A manager is then charged with ensuring that the action plan is implemented.

6. Sometimes remedies are provided for the individual making the complaint but changes in practice, procedure and policies are not made. This problem can also be overcome if, as we suggest earlier in this document, complaints are the subject of regular reports to senior management. They can then take responsibility for implementing changes, and a very clear message is given about how important effective complaint handling is to the whole council.
7. Performance management information needs careful consideration. A target to reduce the number of complaints is not necessarily a good thing. A low level of complaints may indicate an invisible, inaccessible or unusable complaints procedure. Drops in complaint numbers may be indicative of a general lack of confidence in the process. The important information is the outcome, not necessarily the number received. Information on identification and

There is regular monitoring to ensure timescales and satisfaction levels are met

There is periodic review of the process, to keep it up to date and keep the public informed

implementation of improvements resulting from complaints is helpful as a means of managing performance and recognising the contribution complaints make to service improvement.

8. In addition to the regular performance management process, there should be provision for review of the whole complaints process to take account of changes in the area, in users' needs, and in legislation and guidance. If the review includes staff and service users then, as well as keeping it up to date, it helps to raise the profile of the process and prevents it from becoming stale and redundant.

March 2009

Appendix

Here are two lists of questions that might be used with staff to check whether complaints systems are clear and whether staff are aware of the extent and limits of their responsibilities.

1. Staff who receive complaints (front line staff)

- > What does their job description say about their role in receiving/processing complaints?
- > What does the complaints procedure say about what should be done and by whom when a service user approaches front line staff to make a complaint?
- > Are front line staff sufficiently knowledgeable about the process and possible outcomes to advise service users on what will happen?
- > Do front line staff have access to arrangements/agencies that provide assistance to those wishing to make a complaint (translation services etc)? Do they have the authority to arrange this?
- > What records should front line staff keep about service users who approach them to make complaints? Do they know what happens to these records?
- > Do they have access to information about previous complaints? Is it their role to find out whether there is any history regarding the complaints they receive?
- > If they see that something has gone wrong do they have the authority to put it right? If not, do they know what to do to get it put right?
- > Are staff supported and encouraged to apologise when things have gone wrong?
- > If settling a complaint involves cost to the council, do they have the authority to authorise this? If not, do they know who does?
- > If they see that something has gone wrong do they know how this information is fed into the system to avoid similar problems?
- > How do they give and receive feedback about complaints?

2. Staff who investigate and respond to complaints

- > What authority do they have to access people/documents from their own and other departments?
- > Do they have access to confidential file storage?
- > If the complaint involves partners/joint working are there arrangements for someone to take the lead? What arrangements are there for sharing information (and protecting privacy)?
- > What arrangements are in place for interviewing staff (for example, advice about who can and cannot be present during interviews)?
- > If the council is using 'independent' investigators what is the relationship and what is the extent of their authority?
- > What access do staff have to legal advice?
- > Can they settle complaints – what guidance do they have about settlements?
- > Are staff supported and encouraged to apologise when things have gone wrong?
- > What is the process for agreeing settlements that incur costs?
- > Who provides the response to the complainant?
- > If the investigation raises internal issues that need to be addressed, what access does the complainant have to any reports/recommendations about these?
- > Can they recommend disciplinary action? What would their role be in any subsequent procedures?



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