

Report To: Policy and Resources Committee **Date:** 26 March 2013

Report By: Head of Organisational Development,
Human Resources & Communications **Report No:** HR/01/13/GB

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Subject: Complaints Handling Procedure

1.0 PURPOSE

- 1.1 To propose a revised complaints handling procedure moving from a three stage to a two stage process in line with the guidance by the Scottish Public Services Ombudsman (SPSO).

2.0 SUMMARY

- 2.1 The Council currently has an agreed complaints procedure that was approved by the Policy and Resources Committee.
- 2.2 The Scottish Public Services Ombudsman (SPSO) have made proposals to simplify the current procedure from 3 stages to 2 stages and this report sets out the revised procedure being submitted to the Committee.
- 2.3 A revised set of guidelines is attached as Appendix 2 with a quick guide to how the new system operates outlined in Appendix 1. Members should note that the CHCP have their own complaints procedure regulated by the SPSO.

3.0 RECOMMENDATIONS

- 3.1 That the Committee approve the revised Complaints Handling Procedure as set out in Appendix 2.
- 3.2 That it be agreed that a report advising on complaints made against the Council is made on an annual basis to Committee.

Head of Organisational Development, HR and Communications

4.0 BACKGROUND

- 4.1 The Council currently has an agreed complaints procedure which was approved by the Policy and Resources Committee. It is branded InForm and sets out three stages for handling complaints.

Stage 1 – direct contact with the service (response within 10 working days)

Stage 2 – Head of Service review (response within 10 working days)

Stage 3 – Corporate Communications/Chief Executive/CMT review (response within 10 working days)

Thereafter customers wishing to continue their complaint have the option of taking it the SPSO.

- 4.2 The Crerar Report (2007) identified complaints handling as an activity that played an important role in the scrutiny of public services, but also highlighted the need for improvement to arrangements in Scotland's public services. A key finding was that public sector complaints handling processes were not fit-for-purpose, were not always accessible or easy to use, and were often complex and variable in their content.

The report made a number of recommendations aimed at developing a standardised, simplified complaints handling system, to be introduced and overseen by the Scottish Public Services Ombudsman (SPSO).

- 4.3 The 'Statement of Complaints Handling Principles' published by the SPSO was approved by the Scottish Parliament Local Government and Communities Committee on 12 January 2011 and published by the SPSO on 19 January 2011.

- 4.4 In February 2011 the SPSO published guidance on a 'Model Complaints Handling Procedure'. The SPSO requires councils in Scotland to implement their complaints handling procedure by 31 March 2013.

- 4.5 The SPSO model complaints handling procedure encourages councils to move to a two stage complaint process as follows:

Stage 1 - Frontline resolution (response within five working days with option to extend to 10 working days)

Stage 2 – Investigation (acknowledgement within three working days and full response within 20 working days)

If the customer wishes to continue their complaint they have the option of taking it the Scottish Public Services Ombudsman (SPSO).

- 4.6 The SPSO model complaints handling procedure defines a complaint as:

'An expression of dissatisfaction by one or more members of the public about the local authority's action or lack of action, or about the standard of service provided by or on behalf of the local authority.'

5.0 PROPOSALS

5.1 The following proposal is to implement a revised Inverclyde Council Complaints Handling Procedure. This procedure excludes the CHCP who have their own procedure which is regulated through the SPSO.

- Complaints handling procedure – The proposed Inverclyde Council's complaint handling procedure is attached at Appendix 2 with a quick guide attached as Appendix 1. The complaints handling procedure document sets out the overall procedure for handling complaints across the Council.
- This procedure will move the Council from a three stage process outlined at 4.5 to a two stage process. Thereafter customers wishing to continue their complaint would contact the SPSO for investigation

5.2 To ensure that the Council learns from complaints a quarterly reporting system to the Corporate Management Team is being introduced. It is considered appropriate that elected members are also advised of the number and nature of complaints and whether they have been resolved and it is therefore proposed that an annual report on the complaints received by the Council is made to this committee.

6.0 IMPLICATIONS

6.1 Finance: There are no financial implications.

Financial Implications – One off Costs

6.2 Human Resources: N/A.

6.3 Legal: Legal Services have been consulted during the preparation of this report.

6.4 Equalities: There are no equalities issues as the policy is applied to all customers.

7.0 CONSULTATION

7.1 N/A.

8.0 LIST OF BACKGROUND PAPERS

Appendix 1: Quick guide to complaints procedure

Appendix 2 : Complaints Handling Procedure

APPENDIX 1: Quick guide to complaints procedure

Complaints procedure

You can make your complaint in person, by phone, by e-mail or in writing but customers will always be encouraged to make their complaint in writing on the appropriate form.

We have a **two-stage complaints procedure**. We will always try to deal with your complaint quickly. If it is clear that the matter will need a detailed investigation, we will tell you and keep you updated on our progress.



Stage 1: frontline resolution

We will always try to resolve your complaint quickly, within **five working days** if we can.

If you are dissatisfied with our response, you can ask us to consider your complaint at Stage 2.



Stage 2: investigation

We will look at your complaint at this stage if you are dissatisfied with our response at Stage 1. We also look at some complaints immediately at this stage, if it is clear that they are complex or need detailed investigation.

We will acknowledge your complaint within **three working days**. We will give you our decision as soon as possible. This will be after no more than **20 working days** *unless* there is clearly a good reason for needing more



The Scottish Public Services Ombudsman

If, after receiving our final decision on your complaint, you remain dissatisfied with our decision or the way we have handled your complaint, you can ask the SPSO to consider it.

We will tell you how to do this when we send you our final decision.



Complaints handling procedure

March 2013

Foreword

We are committed to making sure that as a modern and efficient organisation, we are responsive to our residents needs.

As part of this commitment we have put in place a quick and effective method of resolving customer complaints.

We have nothing to fear from complaints, they are an opportunity to improve our service by identifying problems and potential problems and finding clear resolutions or they give us an opportunity to clear up a misunderstanding.

A clear and simple complaints handling procedure helps each of us to learn and improve the level and quality of services we provide.

The key changes are that we...

...have streamlined our complaints process shifting from a three to a two stage process

...will continue to seek to resolve more customer complaints as close as possible to the point of service delivery and

...will conduct thorough, impartial and fair investigations of customer complaints within the agreed timescales.

This document explains in detail our revised procedure for complaints handling in Inverclyde Council.

John Mundell
Chief Executive

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What is a complaint?

Inverclyde Council's definition of 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 service provided by or on behalf of the council.'

A complaint **may** relate to:

- failure to provide a service
- inadequate standard of service
- dissatisfaction with council policy
- treatment by or attitude of a member of staff
- disagreement with a decision where the customer cannot use another procedure (for example an appeal) to resolve the matter
- the council's failure to follow the appropriate administrative process.

This list does not cover everything and not every issue may be treated as a complaint.

A complaint is **not**:

- a routine first-time request for a service
- a request for compensation only
- issues that are in court or have already been heard by a court or a tribunal
- disagreement with a decision where a statutory right of appeal exists, for example in relation to council tax or planning
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision.

You must not treat these issues as complaints, and should instead direct customers to use the appropriate procedures.

This list does not cover everything and not every issue may be treated as a complaint.

Handling anonymous complaints

We value all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable

us to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable us to take further action, we may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by a senior manager.

If an anonymous complaint makes serious allegations, we will refer it to an appropriate senior officer immediately.

If we pursue an anonymous complaint further, we will record the issues as an anonymous complaint on the complaints system. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

Who can make a complaint?

Anyone who receives, requests or is affected by our services can make a complaint. Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints brought by third parties as long as the customer has given their personal consent.

Complaints involving more than one service or organisation

If a complaint relates to the actions of two or more local authority services, you must tell the customer who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.

If a customer complains to the council about the service of another agency or public service provider, but the local authority has no involvement in the issue, the customer should be advised to contact the appropriate organisation directly. However, where, a complaint relates to a local authority service and the service of another agency or public service provider, (for example a housing association or a government department), and the local authority has a direct interest in the issue, you must handle the complaint about the local authority through the CHP. If you need to make enquiries to an outside agency in relation to the complaint always take account of data protection legislation and our guidance on handling our customer's personal information. The Information Commissioner has detailed guidance on data sharing and has issued a data sharing code of practice.

Such complaints may include:

- a complaint made to us about a claim for housing benefit where the customer's dissatisfaction relates to the service we have provided and the service the DWP has provided

- a complaint made to us about antisocial behaviour where the customer's dissatisfaction relates to the service we have provided and the service the housing association has provided.

Social work complaints

The procedure for social work complaints is slightly different from our general complaints procedure, as it currently follows specific legislation and guidance.

Care complaints

Anyone receiving care services from us has the right to complain either direct to the Care Inspectorate or to us.

Customers may also receive care or support from other agencies under a contract with us. They may direct complaints about these services either to us (just like complaints about any council service) or directly to the Care Inspectorate.

The Care Inspectorate's contact details can be found on their website:

<http://www.scswis.com/>

Or:

telephone 0845 600 9527

fax 01382 207 289

complete an online complaints form at <http://www.scswis.com>, or

email enquiries@careinspectorate.com

The complaints handling process

Our complaints handling procedure aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

Our complaints process provides two opportunities to resolve complaints internally:

- **frontline resolution**, and
- **investigation**.

Stage one: frontline resolution

The main principle is to seek early resolution, resolving complaints at the earliest opportunity and as close to the point of service delivery as possible. This may mean a face-to-face discussion with the customer, or asking an appropriate member of staff to deal directly with the complaint.

In practice, frontline resolution means resolving the complaint at the first point of contact with the customer, either by the member of staff receiving the complaint or other identified staff.

In either case, you may settle the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. You may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future.

What to do when you receive a complaint

- 1 On receiving a complaint, you must first decide whether the issue can be defined as a complaint. The customer may express dissatisfaction about more than one issue. This may mean you treat one element as a complaint, while directing the customer to pursue another element through an alternative route.
- 2 If you have received and identified a complaint, record the details on our complaints system.
- 3 Next, decide whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated before you can give the customer a suitable response. You must escalate these complaints immediately to the investigation stage.
- 4 Where you think frontline resolution is appropriate, you must consider four key questions:
 - What exactly is the customer's complaint (or complaints)?
 - What does the customer want to achieve by complaining?
 - Can I achieve this, or explain why not?
 - If I cannot resolve this, who can help with frontline resolution?

What exactly is the customer's complaint (or complaints)?

It is important to be clear about exactly what the customer is complaining of. You may need to ask the customer for more information and probe further to get a full picture.

What does the customer want to achieve by complaining?

At the outset, clarify the outcome the customer wants. Of course, the customer may not be clear about this, and you may need to probe further to find out what they expect, and whether they can be satisfied.

Can I achieve this, or explain why not?

If you can achieve the expected outcome by providing an on-the-spot apology or explain why you cannot achieve it, you should do so. If you consider an apology is appropriate, you may wish to follow the SPSO's guidance on the subject:

SPSO guidance on apology

The customer may expect more than we can provide. If so, you must tell them as soon as possible.

You are likely to have to convey the decision face to face or on the telephone. If you do so face to face, by telephone or by email, you are not required to write to the customer as well, although you may choose to do so. It is important, however, to keep a full and accurate record of the decision reached and passed to the customer.

If I can't resolve this, who can help with frontline resolution?

If you cannot deal with the complaint because, for example, you are unfamiliar with the issues or area of service involved, pass details of the complaint to someone who can attempt to resolve it.

Timelines

Frontline resolution must be completed within **five working days**, although in practice we would often expect to resolve the complaint much sooner and ideally right away for most complaints.

You may need to get more information from other services to resolve the complaint at this stage. However, it is important to respond to the customer within five working days, either resolving the matter or explaining that their complaint is to be investigated.

Extension to the timeline

In exceptional circumstances, where there are clear and justifiable reasons for doing so, you may agree an extension of no more than five working days with the customer. This must only happen when an extension will make it more likely that the complaint will be resolved at the frontline resolution stage.

When you ask for an extension, you must get authorisation from the appropriate senior manager, who will decide whether you need an extension to effectively resolve the complaint. Examples of when this may be appropriate include staff or contractors being temporarily unavailable. If, however, the issues are so complex that they cannot be resolved in five days, it may be more appropriate to escalate the complaint straight to the investigation stage. You must tell the customer about the reasons for the delay, and when they can expect your response.

If the customer does not agree to an extension but it is unavoidable and reasonable, a senior manager must decide on the extension. You must then tell the customer about the delay and explain the reason for the decision to grant the extension.

It is important that such extensions do not become the norm. The timeline at the frontline resolution stage should be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than **ten working days** from the date you receive the complaint.

The proportion of complaints that exceed the five-day limit will be evident from reported statistics. These statistics must go to our corporate management team (CMT) quarterly.

Closing the complaint at the frontline resolution stage

When you have informed the customer of the outcome, you are not obliged to write to the customer, although you may choose to do so. You must ensure that our response to the

complaint addresses all areas that we are responsible for and explains the reasons for our decision. It is also important to keep a full and accurate record of the decision reached and given to the customer. The complaint should then be closed and the complaints system updated accordingly.

When to escalate to the investigation stage

A complaint must be escalated to the investigation stage when:

- frontline resolution was tried but the customer remains dissatisfied and requests an investigation into the complaint. This may be immediately on communicating the decision at the frontline stage or could be some time later
- the customer refuses to take part in the frontline resolution process
- the issues raised are complex and require detailed investigation
- the complaint relates to serious, high-risk or high-profile issues.

When a previously closed complaint is escalated from the frontline resolution stage, the complaint should be reopened on the complaints system.

Take particular care to identify complaints that might be considered serious, high risk or high profile, as these may require particular action or raise critical issues that need senior management's direct input.

Potential high-risk or high-profile complaints could include:

- involve a death or terminal illness
- involve serious service failure, for example major delays in providing, or repeated failures to provide, a service
- generate significant and ongoing press interest
- pose a serious risk to local authority operations
- present issues of a highly sensitive nature, for example concerning:
 - immediate homelessness
 - a particularly vulnerable person
 - child protection.

Stage two: investigation

Not all complaints are suitable for frontline resolution and not all complaints will be satisfactorily resolved at that stage.

Complaints handled at the investigation stage of the complaints handling procedure are typically complex or require a detailed examination before we can state our position. These complaints may already have been considered at the frontline resolution stage, or they may have been identified from the start as needing immediate investigation.

An investigation aims to establish all the facts relevant to the points made in the complaint and to give the customer a full, objective and proportionate response that represents our final position.

What to do when you receive a complaint for investigation

It is important to be clear from the start of the investigation stage exactly what you are investigating, and to ensure that both the customer and the service understand the investigation's scope.

It may be helpful to discuss and confirm these points with the customer at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint with the customer, consider three key questions:

1. What specifically is the customer's complaint or complaints?
2. What does the customer want to achieve by complaining?
3. Are the customer's expectations realistic and achievable?

It may be that the customer expects more than we can provide. If so, you must make this clear to the customer as soon as possible.

Where possible you should also clarify what additional information you will need to investigate the complaint. The customer may need to provide more evidence to help us reach a decision.

Details of the complaint must be recorded on the system for recording complaints. The details must be updated when the investigation ends.

Timelines

Complaints at the investigation stage should be dealt with within these timescales:

- complaints must be acknowledged within **three working days**
- you should provide a full response to the complaint as soon as possible but not later than **20 working days** from the time you received the complaint for investigation.

Extension to the timeline

Not all investigations will be able to meet this deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20-day limit. However, these would be the exception and you must always try to deliver a final response to a complaint within 20 working days.

If there are clear and justifiable reasons for extending the timescale, senior management will set time limits on any extended investigation, as long as the customer agrees. You must keep the customer updated on the reason for the delay and give them a revised timescale for completion. If the customer does not agree to an extension but it is unavoidable and reasonable, then senior management must consider and confirm the extension. The reasons for an extension might include the following:

- Essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff, customers or others but they cannot help because of long-term sickness or leave.
- You cannot obtain further essential information within normal timescales.
- Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.
- The customer has agreed to mediation as a potential route for resolution.

These are only a few examples, and you must judge the matter in relation to each complaint. However, an extension would be the exception and you must always try to deliver a final response to the complaint within 20 working days.

As with complaints considered at the frontline stage, the proportion of complaints that exceed the 20-day limit will be evident from reported statistics. These statistics must go to our corporate management team (CMT) on a quarterly basis.

Mediation

Some complex complaints, or complaints where customers and other interested parties have become entrenched in their position, may require a different approach to resolving the complaint. Where appropriate, you may consider using services such as mediation or conciliation using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.

Mediation may help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions. If you and the customer agree to mediation, revised timescales will need to be agreed.

Closing the complaint at the investigation stage

You must let the customer know the outcome of the investigation, in writing or by their preferred method of contact. Our response to the complaint must address all areas that we are responsible for and explain the reasons for our decision. You must record the decision, and details of how it was communicated to the customer, on the system for recording complaints. You must also make clear to the customer:

- their right to ask SPSO to consider the complaint
- the time limit for doing so, and
- how to contact the SPSO.

Independent external review

Once the investigation stage has been completed, the customer has the right to approach the SPSO if they remain dissatisfied.

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. They look at issues such as service failures and maladministration (administrative fault), as well as the way we have handled the complaint.

The text below should be used on your communication with customers when informing them of the outcome of the investigation stage.

The SPSO also provides a leaflet, [The Ombudsman and your organisation](#), which you may find helpful in deciding how and when to refer someone to the SPSO.

Information about the SPSO

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes complaints about Scottish councils. If you remain dissatisfied with a council after its complaints process, you can ask the SPSO to look at your complaint. The SPSO cannot normally look at complaints:

- where you have not gone all the way through the council's complaints handling procedure
- more than 12 months after you became aware of the matter you want to complain about, or
- that have been or are being considered in court.

The SPSO's contact details are:

SPSO

4 Melville Street

Edinburgh

EH3 7NS

SPSO

Freepost EH641

Edinburgh

EH3 0BR

Freephone: **0800 377 7330**

Online contact www.spsso.org.uk/contact-us

Website: www.spsso.org.uk

Mobile site: <http://m.spsso.org.uk>