

Maidstone Borough Council

Complaints Policy and remedies for justified complaints

1. Introduction

- 1.1 Maidstone Borough Council's Strategic Plan sets the organisations' mission as **Great People, Great Place, Great Opportunity**. This means that the needs of residents and customers are central to the way in which we deliver our services. We believe that dealing effectively with complaints is essential to providing good services. We recognise that we will not always get it right and complaints are not only a way of customers telling us when they are dissatisfied but also provide useful information that can help us to improve our services.
- 1.2 This policy sets out how we define complaints as a Council and how we will respond to them. It also includes detail on the monitoring and reporting of complaints and our complaints process. Where the policy refers to customers this includes anyone who uses or is affected by our services.

2. What is a Complaint

- 2.1 A complaint is "a formal expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Council (Council includes staff and contractors) affecting a customer or group of customers."
- 2.2 A complaint is not a request for service or an enquiry about a service. We encourage all our staff to work with customers to try to find a resolution to any expressions of dissatisfaction without the need to use the formal complaints process.
- 2.3 In many cases we can resolve an issue very quickly by putting the problem right straight away. We consider these types of cases as informal service issues. For example, a customer's bin has not been emptied.
- 2.4 However, a request for service may become a complaint if the Council fails to meet our service standards after receiving the initial enquiry.
- 2.5 Complaints can be placed into one of the following seven categories: Failure, Customer Service, Policy/Decision, Quality, Staff Conduct, Technical, and Communication.

- 2.6 Certain types of issues and complaints fall outside of the Council's complaints procedure because there are other processes more suitable for dealing with them, such as statutory appeal or tribunal process, or because there are separate legal or regulatory requirements covering these services, housing matters which are being dealt with under the arbitration process, or matters which are subject to an insurance claim.
- 2.7 However, when a customer is unhappy about the way that an appeal or tribunal matter was handled, for example a delay in preparing the Council's submission to a tribunal or appeals panel, this should be dealt with under this complaints procedure.

3. How to make a complaint

- 3.1 We will not normally consider a complaint that is made more than twelve months after the individual first became aware of the issue they want to complain about. This is in line with good practice as operated by the Local Government and Social Care Ombudsman.
- 3.2 Anyone who uses or is affected by our services can make a complaint.
- 3.3 A complaint can also be made by:
- A representative acting on behalf of someone who is unable to make the complaint themselves because of physical or mental incapacity
 - A representative where they have been asked to act on behalf of a customer
 - A representative acting on behalf of someone who has died
- 3.4 For complaints made by a representative, we have to comply with the following legal requirements:
- We must have written authority from the customer (or from their executor or administrator of their estate) to deal with the representative acting on their behalf (Data Protection requirements).
 - We will only deal with a complaint made by a representative of someone because of physical or mental incapacity if we are satisfied that it is being pursued in the best interest of the customer.
 - We will use the term mental incapacity as defined by the Mental Capacity Act 2000.
- 3.5 We will deal with **anonymous complaints** where they involve individual or public safety, alleged corruption, some waste issues or other impropriety, and where we have sufficient information to allow an investigation to proceed.
- 3.6 Where Councillors or MPs make a complaint on behalf of a constituent, we will deal with the complaint following our normal processes and keep the Councillor or MP informed of progress. If the complaint has already been logged, the MP or Councillor will be sent a copy of the response to the complaint and it will not be logged again.

3.7 The Council is very keen to make sure elected members uphold good standards of behaviour. If you believe that a borough Councillor has failed to comply with the code of conduct for Councillors, please contact the Council's Monitoring Officer.

3.8 Complaints can be made to the Council in the following ways:

Contact us by email at ComplaintsAndFOI@maidstone.gov.uk or or by using our online form which can be found on our website here: www.maidstone.gov.uk/find-and-contact-us/complaints-policy

Alternatively, you can write to us at:

Complaints and FOIs
Information Governance
Corporate Insight, Communities and Governance
Maidstone House
King Street
Maidstone
ME15 6JQ

Or you can telephone 01622 602000.

4. The Complaints Process

4.1 When dealing with a complaint we will:

- Seek to understand your needs and address your complaint
- Seek to use information from complaints for improvement
- Respond within the time frame agreed or inform you when this is not possible
- Respond in plain English
- Be accessible irrespective of age, disability, gender, sexual orientation, race, religion or belief, allowing any customer to provide feedback by whatever means are appropriate for them

4.2 The Council has a two stage complaints process:

Stage 1

All stage 1 complaints will be investigated by the service manager and responded to within **10 working days**.

Stage 2

If you are not happy with the response received at stage 1 you have the right to take the complaint to stage 2 for an independent assessment by the Information Governance team on behalf of the Head of Policy, Communications and Governance.

You must state what aspects of the stage 1 response you are dissatisfied with and why, and what action you now want the Council to take.

The Information Governance team will then undertake an assessment of your complaint in order to determine whether a full investigation would be able to add anything to the stage 1 response or achieve the outcome you are seeking. You will receive an update on the findings of the assessment within 5 working days.

If the Information Governance team assesses your complaint and decides not to investigate further, you will receive a response explaining why. An example of a situation whereby a full investigation would not be undertaken is when the complaint is about a decision on a planning application; this is because the complaints process cannot overturn a planning decision, therefore a full investigation would not achieve the outcome that is being sought.

If the Information Governance team assesses your complaint and decides that further investigation is warranted, you will be informed of this. You will then receive a full response within 20 working days.

4.3 Local Government and Social Care Ombudsman. If after having followed our complaints process you are still unhappy, you can contact the Local Government and Social Care Ombudsman, an independent service set up by the Government to investigate complaints about most council matters. The Ombudsman will not investigate most complaints until they have been through both stages of the Council's complaints process.

4.4 Enquiries from the Local Government and Social Care Ombudsman will be co-ordinated by the Council's Information Governance team.

4.5 In cases where the Ombudsman has recommended redress, we are committed to following the advice and timescales of the Ombudsman to the best of our ability.

4.6 Contacting the Local Government and Social Care Ombudsman:

- Online: www.lgo.org.uk
- Phone: 0300 061 0614

4.7 Housing and Social Care Ombudsman

Complaints about social housing (landlord/tenant issues) may be referred to the Housing and Social Care Ombudsman if a complainant remains dissatisfied with the Council's response. A period of eight weeks must pass between the Council's final response and the complainant referring the matter to the Ombudsman. During this time, the complainant may request consideration of their complaint by an MP or local Councillor.

4.8 Contacting the Housing and Social Care Ombudsman:

- Online: www.housing-ombudsman.org.uk
- Phone: 0300 111 3000

5. Remedies for Justified Complaints

- 5.1 Section 92 of the Local Government Act 2000 gives councils powers to remedy injustice arising from maladministration. The purpose of this power is to ensure that the complainant is put back into the position they would have been in before the issue occurred.
- 5.2 The Council will only provide remedies or compensation where the complainant has suffered injustice as a result of maladministration.
- 5.3 The Council aims, as far as possible, to put the complainant in the position they would have been in before the maladministration occurred. Financial compensation will only be paid as a last resort.
- 5.4 Each case will be considered on its own merits in the light of the particular circumstances. Where a complainant has sustained loss or suffering, the Council may consider providing a free service (such as a voucher) or financial compensation.
- 5.5 Each case will be evaluated in terms of impact: Low, Medium or Major.
- 5.6 Service Managers have authority to agree compensation for Low impact complaints.
- 5.7 Overall authority is delegated to the Head of Policy, Communications and Governance (in conjunction with the Monitoring Officer) who will evaluate Medium and Major impact complaints and determine whether or not an injustice has been caused as a result of maladministration.
- 5.8 We will not consider financial compensation in the following circumstances:
- Any matter settled via an insurance claim
 - Any settlement agreed via court proceedings
 - Where there is a specific statutory process of remedy open to the complainant, such as parking appeals process
 - We would generally not pay compensation where the amount of the award calculated was less than £50 (instead we would consider some other form of benefits in kind such as vouchers that can be spent on the High Street)
- 5.9 Exceptions to these circumstances:
- We may pay compensation to settle a claim where it is cost effective for the Council to do so
- 5.10 A complaints remedy or financial compensation payment will be ex-gratia and would not represent an admission of liability. It is also important to note that compensation will not be paid where disadvantage has been caused entirely by a third party or by the actions of the complainant.
- 5.11 Efforts will be made to ensure that, as far as possible, broadly similar complaints, if justified, should receive broadly comparable remedies.

6. Monitoring and Reporting

- 6.1. Complaints will be monitored and reported on annual basis. The reports will be available on the Council's website.

7. Unreasonable and Unreasonably Persistent Contacts

- 7.1. The Council has a separate 'Unreasonable and Unreasonably Persistent Customer Contact Policy'. This has been developed to ensure the Council is proportionate and fair in the way it defines this type of customer contact and in the manner it deals with it. This policy is available on our website.