



**Hartlepool Borough Council**  
**Public Health**  
**Complaints, Compliments and**  
**Comments Procedure**

Review: October 2016

## 1.0 Introduction

1.1 The Public Health Department aims to provide high quality services that meet the needs of local people whilst being both efficient and effective. To ensure that we achieve this, we need to hear from our residents and service users to inform us when we are not quite delivering, when improvements could be made or when we are doing a good job.

1.2 Our aim is to put you first and provide you with the best possible service. To make this aim a reality, it is important that you are able to inform us what you think about the public health services that we are responsible for providing.

1.3 The Public Health Complaints, Compliments and Comments Procedure is one way that you can do this. You can tell us when we get things wrong so that we can put them right, you can also tell us when we get things right and make comments about the things we do and also suggest new ways for us to improve things.

1.4 If you wish to make a complaint we will take your concerns seriously, we will treat you fairly and with respect and you can be confident that you will not receive a poorer service as a result. If we uphold your complaint, you can expect an apology and for us to put things right quickly, what we ask in return is that you treat our staff with respect. In addition to resolving your complaint, we will use the information we gather on complaints to help us improve the services that we provide.

1.5 In order to deal with complaints, comments and compliments in a consistent manner across the Council we have a Corporate Complaints, Comments and Compliments Procedure in place. There are a number of areas however, that fall outside of the Corporate Complaints, Compliments and Comments procedure as they already have specific arrangements in place and Public Health is one such area for which this applies.

1.6 This procedure sets out how we will deal with your complaint in line with the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 (the Regulations) which came into effect in April 2013. It also sets out how we will deal with your compliments and comments. Our aim is to resolve your complaint and if necessary put you back in the position you would have been in before having to make the complaint.

1.7 The designated “Responsible Officer” for ensuring compliance with the arrangements made under the Regulations and in particular ensuring that action is taken, if necessary, in the light of the outcome of a complaint, is the Chief Executive. The Chief Executive will refer all public health complaints to the Head of Commissioning and Clinical Quality, who is the designated Complaints Manager and will review all complaints relating to public health functions.

## 2.0 [Making a Complaint](#)

### 2.1 What is a complaint?

Hartlepool Borough Council defines a complaint as follows:

**“An expression of dissatisfaction, however made, about the standard of service, action or lack of action by the Council, its staff, or contractors or agents providing services on behalf of the Council that requires a response”**

This procedure deals with complaints about the exercise of our Public Health functions and any services provided on our behalf in relation to our Public Health functions. These functions include for example, smoking cessation services, interventions to tackle obesity such as community lifestyle and weight management services, locally led nutrition initiatives, drug and alcohol addiction services, behavioural and lifestyle campaigns to prevent cancer, heart and lung disease and other long term conditions, health improvement services and sexual health services. Complaints about other functions for which the Director of Public Health has service responsibility; such as Public Protection and Sports and Recreation, would be considered under the Corporate Complaints procedure which can be found at:

[http://www.hartlepool.gov.uk/site/scripts/documents\\_info.php?documentID=743](http://www.hartlepool.gov.uk/site/scripts/documents_info.php?documentID=743)

### 2.2 Who can complain?

A complaint may be made by a person who receives or has received Public Health services from us or someone providing services on our behalf; or a person who is affected, or likely to be affected, by our actions, omissions or decisions.

A complaint may be made by someone acting on behalf of a person who has died; is a child; is unable to make the complaint themselves because of physical incapacity; or a lack of capacity within the meaning of the Mental Capacity Act 2005; or has requested the representative to act on their behalf.

Where a representative makes a complaint on behalf of a child we will not consider the complaint unless we are satisfied that there are reasonable grounds for the complaint being made by a representative instead of the child. If we are not satisfied that there are reasonable grounds as to why the child cannot make the complaint we will notify you in writing advising you of the reason for our decision.

If you are representing a child or an individual who lacks capacity we will not consider the complaints if we feel you are not acting in the person's best interest. If we are not satisfied that the complaint is being made in the person's best interest, again we will notify you in writing advising you of the reason for our decision.

### 2.3 How to Make a Complaint

You can make a complaint in person, in writing, over the phone or by any other reasonable means. Contact the Public Health Complaints Officer on 01429 284020 clearly specifying that your complaint is in relation to a Public Health matter.

Alternatively, you can email your complaint to [public.health@hartlepool.gov.uk](mailto:public.health@hartlepool.gov.uk) or you can write to Public Health Complaints, Hartlepool Borough Council, Civic Centre Level 4, Victoria Road, Hartlepool. TS24 8AY.

### **3.0 How we will deal with your complaint**

#### **3.1 Complaints not required to be dealt with under the regulations**

The following complaints are not required to be dealt with in accordance with the Regulations:

- A complaint by a responsible body e.g. Local Authority or Service Provider
- A complaint by an employee of a responsible body about any matter relating to that employment
- A complaint the subject matter of which is the same as that of a complaint that has previously been made and resolved in accordance with the procedures below.
- A complaint the subject matter of which has previously been investigated under the Regulations
- A complaint the subject matter of which is being or has been investigated by a Local Commissioner under the Local Government Act 1974
- A complaint arising out of the alleged failure by a responsible body to comply with a request for information under the Freedom of Information Act 2000
- A complaint which relates to any scheme established under section 7 (superannuation of persons employed in local government service etc.) or section 24 (compensation for loss of office, etc.) of the Superannuation Act 1972 or to the administration of those schemes.

With the exception of a complaint made verbally and resolved by the next working day, where we consider your complaint a non qualifying complaint we will write to you within five working days to notify you of our decision and the reason for it. (Appendix 1A).

**3.2** If your complaint is about the attitude or behaviour of a member of staff it may be more appropriate to investigate the matter under the Council's or the service provider's, employment procedures.

### **4.0 Complaints about the exercise of our Public Health functions**

#### **4.1 Pre-Formal Complaint Stage**

An initial attempt should always be made to settle a complaint straightaway without recourse to the formal complaints process this can be achieved by arranging for something to be done such as responding by providing relevant information and an explanation of Council policy or practice.

The majority of complaints should be resolved this way. Direct contact with the complainant, by phone or in person, is recommended to clarify whether the issue is a complaint, what outcome the person desires and whether this can be achieved. Complaints of this nature should be responded to within 3 working days with a substantive response but where possible dealt with immediately over the phone. This

timescale is reflective of the 3 days initial acknowledgement of a formal complaint although many pre formal complaints will be resolved before they move on to this stage.

## **4.2 Formal Complaint**

There are 2 reasons behind formal complaints:

1. The complainant is not satisfied with the attempts made to resolve the problem at the pre-formal complaint stage or
2. There has been no opportunity to sort out their complaint using the pre-formal complaint stage as no quick remedy has been available.

If you raise a formal complaint within this procedure and it relates to our actions we will acknowledge your complaint within 3 working days after the day in which the complaint was received. (Appendix 1B)

The Complaints Manager (Head of Commissioning and Clinical Quality) will appoint someone to investigate your complaint. This will usually be someone independent of the service you are complaining about. This person will be referred to as the 'Investigating Officer'. The investigating Officer will contact you, where appropriate, to discuss the matter.

While the regulations allow a maximum of six months to respond to a complaint we will always endeavour to send you a response to your complaint as soon as practicably possible.

As far as is possible the Investigating Officer will keep you informed of progress throughout the investigation. If the Investigating Officer requires additional information to complete the investigation they will contact you. (Appendix 1C)

The Investigating Officer will then complete the investigation into your complaint and produce a report for the Complaints Manager (Head of Commissioning and Clinical Quality) including recommendations to resolve the matter and where appropriate to improve the service provided. The Complaints Manager will decide what action to take, if any, in the light of the outcome of investigation into your complaint and will then write to you advising how we considered your complaint, the conclusions we reached and any actions we have or intend to take to resolve the matter and improve the service we provide. The letter will also explain what the next stage of the process is if you are unhappy with the outcome of your complaint i.e. review by the Chief Executive. (Appendix 1D)

The Complaints manager will also provide details of your right to refer the matter to the Local Government Ombudsman should you remain dissatisfied with our response and the remedy offered.

## 5.0 Review of complaint outcome by Chief Executive

If the complainant would like the outcome of their complaint to be reviewed by the Chief Executive they must inform the Complaints Manager **within 20 working days** of the outcome of investigation letter (or preferred method of contact) being sent. This request can be made by letter, email or phone.

Once the department is informed of the request for a review then a review meeting will be arranged to take place as soon as possible. The review will be undertaken by the Chief Executive with support from the Corporate Complaints Officer. The Complaints Manager and Investigating Officer will also attend the complaint review meeting. In some cases there may also need to be a senior officer from the relevant service area in attendance at the review meeting. The Chief Executive will review the documentation and determine whether or not a complaint has been dealt with properly and fairly, in accordance with the Public Health complaints procedure and the Council's policies. The documentation presented to the Chief Executive should include:

- The original complaint
- Any subsequent correspondence from the complainant
- The Council's written response to the complainant
- The Investigation Report

The Chief Executive will decide whether:

- The complaint has been fully and properly dealt with and therefore there is no further action to be taken by the Council; or
- The complainants request for a review should be upheld as they feel that:
  - The decision reached by the complaints investigation was not consistent with the circumstances of the case;
  - The complainant has been treated unfairly or differently in similar circumstances to someone else;
  - The Council had failed to put right, or acknowledge that it has made a mistake;
  - The remedy offered to the complainant was not appropriate.

The types of cases that would not be considered by the Chief Executive include:

- Those which deal with matters where no case can be made that would cause the Chief Executive to make an exception to normal practice;
- Where new information has emerged cases will normally be referred back to the department to see whether the original decision needs to be changed.

Following the review of the complaint by Chief Executive the Department will write out (or use preferred method of contact) to the complainant **within 10 working days** to inform them of the outcome of the review meeting. The complainant will be informed of their right to complain to the Local Government Ombudsman if they are

still dissatisfied with the way their complaint has been dealt with. (Appendix 1E and 1F)

## **6.0 Complaints about services provided on our behalf in relation to our public health functions**

If you make your complaint directly to the service provider they will let us know when they receive the complaint. We will agree the response and any proposed actions to resolve your complaint with the service provider prior to them sending the response to you. Complaints sent directly to the provider will be dealt with within the same timescales as identified within this policy.

If you make a complaint to the Council about a service provider we will ask you whether you consent to us sending your complaint to the service provider. Where we consider it appropriate for them to do so, we will also ask you whether or not you consent to the service provider investigating your complaint. If you do we will forward the complaint to the service provider to investigate the matter in accordance with the Regulations. If you do not we will investigate your complaint as set out in the above section '**Complaints about the exercise of our public health functions**'.

Where your complaint is sent to the service provider for investigation we will agree the response and any proposed actions to resolve your complaint with the service provider prior to them sending the response to you.

If you make your complaint to both the Council and the service provider, and we consider it would be appropriate for the service provider to investigate, we will ask you whether or not you consent to the service provider investigating your complaint. If you do, we will forward the complaint to the service provider to investigate the matter in accordance with the Regulations. If you do not we will investigate your complaint as set out in the above section '**Complaints about the exercise of our public health functions**'. Where your complaint is sent to the service provider for investigation we will agree the response and any proposed actions to resolve your complaint with the service provider prior to them sending the response to you.

## **7.0 Putting Things Right**

When you make a complaint we will ask you what you would like us to do to put things right. We will take your views into account but it may not always be possible to give you exactly what you want. Where this is the case, we will discuss the matter with you and come to an agreement.

If we uphold or partly uphold your complaint you can expect an apology and for us to put things right quickly. We may also propose a number of other actions. The aim of these actions is to put you back in the position you were in before the problem occurred and make amends for any loss you may have suffered as a result. Although we will consider each complaint on its merits we will try to ensure we offer similar remedies for similar situations.

Remedies may include a review of our practices and procedures to ensure that the same thing does not happen again, or we may take a specific action. (Appendix 4)

## **7.1 What if you are not happy with the outcome?**

If a complainant remains dissatisfied with the outcome of their complaint or the way in which their complaint was handled then they have the right to take their complaint to the Local Government Ombudsman (LGO).

The LGO can be contacted by phone to the LGO Advice Team on 0300 061 0614 or by going through their website at [www.lgo.org.uk](http://www.lgo.org.uk)

If the LGO receives a complaint before it has been considered by the Council they will regard it as premature and send it on to the Council for investigation in accordance with this policy. The complainant will still have the right to take the complaint back to the Ombudsman if they are dissatisfied with the outcome of their complaint or the way in which it has been handled.

## **8.0 Anonymous Complaints**

If you make an anonymous complaint we will investigate the matter but we will not be able to provide you with a response. If you do not want to give your name because you are worried that it might affect the service you receive, please be assured this will not be the case. Following an investigation into an anonymous complaint the Complaints Manager will decide what, if any actions should be taken as a result of the investigation.

## **9.0 Dealing with Persistent and Unreasonable Complaints and Complainants**

An unreasonable or unreasonable persistent customer or one that is acting in a vexatious manner can take up a disproportionate amount of time and can hinder the other work of our staff. The Council must therefore ensure it uses its resources wisely and limits the amount of time it spends on queries it considers unreasonable, unreasonably persistent or vexatious.

Unreasonably persistent complainants and/or unreasonable complainant behaviour is dealt with in accordance with the Managing Unreasonable Customer Behaviour Policy available on the Intranet: [http://hbcintranet/downloads/HBC\\_-\\_Managing\\_unreasonable\\_customer\\_behaviour\\_Policy\\_-\\_Agreed\\_21.9.15.pdf](http://hbcintranet/downloads/HBC_-_Managing_unreasonable_customer_behaviour_Policy_-_Agreed_21.9.15.pdf)

Abusive, offensive or threatening conduct may need to be dealt with through the Employee Protection Register Policy and Procedures. The authority has a duty to provide a safe working environment and system of work for its employees. This policy puts into place a register of people and addresses which constitute a potential threat to the safety of staff when they come into direct face to face contact.



## 10.0 [Time Limit](#)

We will not usually look into your complaint if 12 months have passed since the date you learned that something went wrong. However, we may accept your complaint for one or more of the following reasons:

- You are a vulnerable adult and did not complain because you were concerned about what might happen.
- We believe that there would be a benefit to you in looking into your complaint.
- There is likely to be enough information available from the time the incident happened to enable an effective and fair investigation to be carried out.
- There are enough people available from the time the incident happened to enable an effective and fair investigation to be carried out.
- Where action needs to be taken in light of human rights based legislation.

There may be other reasons why we would consider your complaint that are not included in this list, we will consider each case on its merits.

## 11.0 [Accessibility and Equal Opportunities](#)

We are committed to making sure that everyone has equal access to all our services, including the complaints procedure. To help make sure our complaints procedure is easily accessible we:

- Use plain language;
- Accept complaints over the phone or in person, in writing, by email, via our website or by any other reasonable means;
- Provide information and responses in Braille, large print, audio, easy read format and other languages where needed; and
- Provide translators (including sign language translators) where needed.

## 12.0 [Compliments](#)

Compliments can help us share good practice and improve services. If you pay someone a compliment in person they will pass the details on to the Public Health Complaints and Compliments Officer to be recorded.

If you pay someone a compliment via the Public Health Complaints and Compliments Officer, we will record it, send you an acknowledgement and pass it on to the appropriate person.

## 15.0 [Comments](#)

Comments are also a great way of sharing your ideas about particular projects or services in general. If you pass your comments on to a member of staff they will pass the details on to the Public Health Complaints and Compliments Officer to be recorded.

If you make a comment via the Public Health Complaints and Compliments Officer, we will record it, send you an acknowledgement and pass it on to the appropriate service.

Where a response is required the service will provide one within 20 working days of the date we receive your comment.

The Public Health Complaints and Comments Officer will record any actions taken as a result of your comment

## 16.0 [Record Keeping and Data Sharing](#)

During the complaint investigation the Investigating Officer may keep a file containing correspondence and other relevant documentation (such as written notes, transcripts of conversations, etc).

Following the conclusion of the investigation the Investigating Officer will send the documents to the Public Health Complaints and Compliments Officer. The Investigating Officer will dispose of any irrelevant information in a secure manner (i.e. shredding of paper documents and deletion from electronic systems).

We will keep all records in line with the Council's retention periods. These retention periods are taken from the Records Management Guidelines for Local Government and advice from the National Archives.

During the complaints process it may be necessary to share your personal details with those staff involved in providing your care. We will only share details that are relevant to the complaint. Such details will only be recorded by the Investigating Officer and the Public Health Complaints and Compliments Officer

If you decide to take your complaint to the Local Government Ombudsman (LGO) we may share your personal data with the Council's Chief Solicitor.

If you are classified as an unreasonable or unreasonably persistent complainant some of your personal details will be communicated to complaints staff, personal assistants, councillors, senior managers and customer services staff. This may include your name, contact details, a physical description (to assist staff who have face to face contact with complainants) and details of the behaviour that has resulted in the application of the policy.

All personal data will be securely stored and will be processed in line with the Council's Data Protection Policy and the provisions of the Data Protection Act 1998.

## 17.0 [Further Information](#)

This procedure links to a number of existing policies and procedures. To be fully understood in its wider organisational context it should be read in conjunction with the other Complaints, Compliments and Comments Procedures the content of which can be found on the Councils Website:

- Corporate Complaints, Compliments and Comments Procedure  
[http://www.hartlepool.gov.uk/site/scripts/documents\\_info.php?documentID=743](http://www.hartlepool.gov.uk/site/scripts/documents_info.php?documentID=743)
- Adult Social Care Complaints, Compliments and Comments Procedure  
[http://www.hartlepool.gov.uk/info/100010/health\\_and\\_social\\_care/1635/adult\\_social\\_care\\_get\\_in\\_touch/2](http://www.hartlepool.gov.uk/info/100010/health_and_social_care/1635/adult_social_care_get_in_touch/2)
- Children's Social Care Complaints, Compliments and Comments Procedure  
[http://www.hartlepool.gov.uk/info/100010/health\\_and\\_social\\_care/1635/adult\\_social\\_care\\_get\\_in\\_touch/2](http://www.hartlepool.gov.uk/info/100010/health_and_social_care/1635/adult_social_care_get_in_touch/2)
- Public Health Complaints, Compliments and Comments Procedure  
[http://www.hartlepool.gov.uk/downloads/download/3319/public\\_health\\_complaints\\_procedure](http://www.hartlepool.gov.uk/downloads/download/3319/public_health_complaints_procedure)
- Managing Unreasonable Customer Behaviour Policy  
[http://hbcintranet/downloads/HBC\\_-\\_Managing\\_unreasonable\\_customer\\_behaviour\\_Policy\\_-\\_Agreed\\_21.9.15.pdf](http://hbcintranet/downloads/HBC_-_Managing_unreasonable_customer_behaviour_Policy_-_Agreed_21.9.15.pdf)

## 18.0 Summary of Appendices

### Appendix 1 – Letter/Email Templates

- A. Complaint Excluded from Complaints Policy Response
- B. Acknowledgement of Complaint
- C. Request for Further Information from Complainant
- D. Outcome of Complaint Investigation
- E. Outcome of CEO Review – Appeal not upheld
- F. Outcome of CEO Review – Appeal upheld

### Appendix 2 – Guidelines for Good Investigative Practice

### Appendix 3 – Investigation Report Template

### Appendix 4 – Remedies for Complaints

## Appendix 1 – Letter/Email Templates

### A. Complaint excluded from complaints policy

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT .....**description of *complaint***.....

Thank you for your letter/phone call/visit/e-mail of (*date*) to explain your complaint about .....*subject of complaint*.....

I have reviewed your complaint and am writing to advise that at this time I am unable to investigate it further as it falls outside the remit of the Public Health Complaints Procedure.

The reason for this is that a complaint (\*select from list below) is not required to be dealt with in accordance with the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012 as other specific arrangements exist to deal with your query.

#### \*List of exclusions

- A complaint by a responsible body e.g. Local Authority or Service Provider
- A complaint by an employee of a responsible body about any matter relating to that employment
- A complaint the subject matter of which is the same as that of a complaint that has previously been made and resolved in accordance with the procedures above.
- A complaint the subject matter of which has previously been investigated under the Regulations
- A complaint the subject matter of which is being or has been investigated by a Local Commissioner under the Local Government Act 1974
- A complaint arising out of the alleged failure by a responsible body to comply with a request for information under the Freedom of Information Act 2000
- A complaint which relates to any scheme established under section 7 (superannuation of persons employed in local government service etc.) or section 24 (compensation for loss of office, etc.) of the Superannuation Act 1972 or to the administration of those schemes.

I would therefore ask that you contact ...*insert*... directly to take this matter forward.

Yours sincerely

## B. Acknowledgement of Complaint

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT .....*type of complaint*.....

Thank you for your letter/phone call/visit/e-mail of (*date*) to explain your complaint about .....*subject of complaint*.....

\*(I enclose a note of the information you provided/copy of a complaints form which sets out your complaint. Could you please read through it and let me know if there are any mistakes or anything missed out. If you wish it to be changed, can you please contact me as soon as possible to let me know.)\*

Your complaint will be investigated by .....*name of officer*..... of this department. We will be in touch with you as soon as possible, to let you know the outcome of the investigation.

I enclose a copy of the Public Health complaints leaflet which explains how the complaints procedure works.

Yours sincerely

Enc.

- \* *When a complaint has been registered by phone or visit, complainants should be provided with a written account of their complaint, to ensure their agreement of what the complaint covers and what is to be investigated. This can be in the form of a completed complaints form or a note which covers the same topics.*

### C. Request for further information

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT .....*type of complaint*.....

Thank you for your letter/phone call/visit/e-mail of (*date*) to explain your complaint about .....*subject of complaint*.....

I am currently investigating your complain but require some further information to enable a thorough investigation to take place. Please can you provide me with the following information.....*detail*..... in order to ensure I take all necessary information into account.

Please can you ensure that you provide me with the information within the next 20 working days, that is by ...*date*... , in order for a timely investigation of your complaint to take place. If I do not receive the requested information within this timescale I will be unable to continue the investigation and the complaint will therefore be closed.

I enclose a copy of the Public Health complaints leaflet which explains how the Public Health complaints procedure works.

Yours sincerely

Enc.

## D. Outcome of complaint investigation

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT .....**description of complaint**.....

As promised in our letter of ...*date*..., I am writing to let you know the outcome of our investigation of your complaint.

Your complaint to Public Health is that..... *brief summary of complaint* .....

Your complaint has been investigated and the findings are set out below.

.....*A brief report of your investigation covering each element of the complaint in turn. This may include, for example, a summary of information collected/ a copy of the report by the investigating officer/a sequence of events/ reasons for decisions or actions/ factors taken into consideration when making judgement on the complaint/ etc., as appropriate.*

I trust that I have covered all the points raised in your formal complaint. Please contact me if you feel this is not the case. Having reviewed this case, I therefore conclude that your complaint is *upheld/partly upheld/not upheld*.

*(If “upheld” or “partly upheld”, a remedy of some sort should be offered. This can be an apology, a promise to ensure that it doesn’t happen again, arranging for a service to be provided, etc, etc. See Appendix 5 of Corporate Complaints Procedure.)*

I hope these comments indicate clearly the Council’s position in response to your complaint. If you wish to take this matter further with the Council, you have the right to appeal against the outcome. Any appeal would be referred to the Council’s Chief Executive who would review the complaint and documentation. If you wish your complaint to be reviewed by the Chief Executive, please let me know within 20 working days, that is by ....*date*.....

If you remain unhappy with the way we have dealt with your complaint you have the right to refer the matter to the Local Government Ombudsman ([www.lgo.org.uk](http://www.lgo.org.uk) or 0300 061 0614) who can make an independent investigation of your complaint.

Yours sincerely

Enc.

## **E. Outcome of Chief Executive Review –Appeal Not Upheld**

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT .....**description of *complaint***.....

As requested in your letter of ...date..., I am writing to let you know the outcome of the review into the Council's investigation of your complaint.

The Council's Chief Executive has reviewed the evidence and concluded that the complaint has been investigated in line with the Public Health complaints procedure. As a result he has decided that the original outcome should be upheld as the complaint has been fully and properly dealt with.

I appreciate that the decision not to take this matter further may not be the outcome you had hoped for.

I enclose a leaflet explaining the Public Health complaints procedure, which explains how to complain to the Local Government Ombudsman who can make an independent investigation of your complaint, if you remain unhappy with the way we have dealt with it.

Yours sincerely

Enc.



## F. Outcome of Chief Executive Review – Appeal Upheld

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT .....*description of complaint*.....

As requested in your letter of ...*date*..., I am writing to let you know the outcome of the review into the Council's investigation of your complaint.

The Council's Chief Executive has reviewed the evidence and concluded that, in this case, your appeal should be upheld. The Chief Executive has decided that ...*insert reason for decision*...

INSERT REMEDY TEXT

I also enclose a leaflet explaining the Public Health complaints procedure, which explains how to complain to the Local Government Ombudsman who can make an independent investigation of your complaint, if you remain unhappy with the way we have dealt with it.

Yours sincerely

Enc.

## **Appendix 2 – Guidelines for Good Investigative Practice**

### **1. Introduction**

- 1.1 The majority of complaints are likely to be dealt with speedily and simply. For cases where a more substantial inquiry is required, these notes are intended as guidance for investigating officers. All investigating officers should record their investigations using the Investigation Report Template set out in Appendix 3.

### **2. The Complaint**

- 2.1 Check if there are any previous complaints from this person.
- 2.2 Make sure that you have a clear account of the complaint. It is strongly recommended that the investigator has a meeting or telephone conversation with the complainant to clarify the complaint, what outcome the person desires and whether this can be achieved.
- 2.3 Set out in writing your understanding of the complaint and, if necessary, provide a copy for the complainant. This may be necessary in cases where, for example, the complainant has registered their complaint in person or over the phone and gives the complainant an opportunity to amend your description of the complaint if they wish
- 2.4 Clarify the outcome sought by the complainant.
- 2.5 Check whether the complainant needs support of any kind, or has poor sight or hearing, or a language difficulty, and check what help the complainant needs so as to be able to understand the discussion properly. Check what their preferred method of contact is.
- 2.6 Make sure that the complainant is informed about the investigation procedure and if necessary, provide them with a copy of the Public Health complaints leaflet.

### **3. The Investigation**

- 3.1 Brief yourself on the relevant legal, policy and administrative background to the complaint.
- 3.2 Assess whether the complaints procedure is the most appropriate way of handling this complaint. Consider possible alternative procedures, for example:
- an appeal to a tribunal;
  - legal action; or
  - police involvement.

Discuss the alternatives with the complainant as appropriate. As consideration of the complaint proceeds, the question of whether the

complaints procedure is the appropriate mechanism should be reviewed as necessary. Consult with the Chief Solicitor and/or the Corporate Complaints Officer if you are in any doubt.

- 3.3 Consider whether the complaint could be resolved without further investigation.
- 3.4 If the complaint is about a proposed action of the Council, consider whether the action should be deferred while the complaint is investigated.
- 3.5 Obtain all relevant documents (ensuring that you see the originals or scanned originals, not copies). These may include files, logbooks and time sheets. Get copies of all the documents you need. Complaints files should be securely stored and should not be kept longer than is necessary.
- 3.6 If appropriate, consider whether it would be worthwhile making an unannounced visit to the establishment complained about to check normal practices.
- 3.7 Establish the relevant sequence of events from the files and also the names of the officers/members most directly involved in the matters complained of. Decide which, if any, of these people you need to interview.

#### **4. Interviews**

- 4.1 Prepare the line of questioning for each person to be interviewed:
  - use open, not leading, questions;
  - do not express opinions in words or in your body language; and
  - ask single, not multiple, questions.
- 4.2 Arrange the order of interviews so that, where you need to establish what procedure are normally followed, you do this first with more senior officers and end with the officers most directly involved in the matters complained of.
- 4.3 Inform all those to be interviewed that they can be accompanied by a friend or union representative, provided the friend is not the supervisor of the interviewee. Explain the complaint clearly to them.
- 4.4 Consider whether you need a witness to an interview that may be particularly difficult.
- 4.5 Interviews should be conducted in an informal and relaxed manner, but persist with your questions, if necessary. Do not be afraid to ask the same question twice. Make notes of each answer given.
- 4.6 Try to separate hearsay evidence from fact by asking interviewees how they know a particular fact.

- 4.7 Deal with conflicts of evidence by seeking corroborative evidence. If this is not available, then as an exceptional measure, consideration can be given to organising a meeting between the conflicting witnesses.
- 4.8 At the end of the interview, summarise the main points covered and ask if the interviewee has anything to add.
- 4.9 Make a formal record of the interview from your written notes as soon as possible after the interview, while your memory is still fresh. Never leave it longer than the next day.

## **5. Reporting on the Investigation**

- 5.1 Complainants should be informed in the initial, written acknowledgement of their complaint when they should expect to hear the outcome of the investigation. If this original deadline is not going to be met, complainants should be kept informed of the progress of their complaint. They should be informed of the reason for the delay and given a revised date for the completion of the investigation.
- 5.2 Investigating Officers should complete an Investigation Report setting out the evidence obtained, adding your conclusions as to whether it was upheld in part or not upheld. Where appropriate, suggest a remedy (See Appendix 5). Where an investigation has been particularly complex, e.g. where a number of people have been interviewed, you may wish to consider writing a draft report setting out the evidence obtained. This could be circulated for checking of factual accuracy to all those interviewed, including the complainant, unless there are special reasons not to do so. This can help ensure that your account of events and understanding of the case is as accurate as possible. Having considered any comments received, the report would be amended as necessary, adding conclusions and, if appropriate, a suggested remedy for the complainant. The report should consider any lessons to be learnt from the complaint and what changes should be made or considered to procedures, systems etc.
- 5.3 Circulate the final report to all those interviewed and inform the complainant of the outcome of the investigation by preferred method of contact. Offer the complainant the opportunity to have their complaint reviewed by the Chief Executive, if they are dissatisfied with the outcome. Finally, once the Council's process has been exhausted remind them that they may complain to the Local Government Ombudsman.

## Appendix 3 – Investigation Report Template

Investigating Officers should use the following template to record complaints investigations:

### Complaint Investigation Report

Complaint Reference Number: This should be provided by the Public Health Complaints Officer.

Complainant Details: For the person making the complaint insert name, contact details & note how they prefer to be contacted. Where this is different from the person that the complaint relates to e.g. they are complaining on behalf of a family member please note their details too. Also note any special requirements that they have e.g. large print etc.

Detail of Original Complaint: Outline what the complaint is about in as much detail as available.

Updates to Original Complaint: Outline any additional information/clarification about the complaint.

Methodology: Outline who was interviewed including when and where, also set out any key documents that have been used e.g. council policies, procedures including the versions used in the investigation as appendices.

Detail of the Investigation Findings: Include as appropriate the chronology of events, evidence found, interview notes,

Conclusion & Recommendations: Set out for each element of the complaint whether it has been upheld, partly upheld or not upheld and why. Include in this section the remedy's suggested including those to be received by the complainant directly and suggested changes to services/processes for the Department to consider

## **Appendix 4 – Remedies for Complaints**

### **1. Introduction**

- 1.1 Where a complaint is upheld, the Council should always offer some type of remedy for it. An apology will normally be appropriate and other action may also be justified.
- 1.2 If the council is found to have been at fault, it will be necessary to consider whether it caused injustice to the complainant and, if so, what the injustice was.

### **2. Types of Action for Consideration**

- 2.1 The general aim of a remedy is that, as far as possible, complainants should be put in the position they would have been in if things had not gone wrong. The remedy needs to be appropriate and proportionate to the injustice suffered by the complainant. The remedy should also prevent similar failure, and therefore injustice, happening again
- 2.2 Possible remedies include:
  - an apology;
  - an clear explanation of what happened and why it happened;
  - an assurance that it will not happen again and that the situation will be monitored to ensure this;
  - action that can be taken to put things right, e.g. back dating of benefit claim or providing the service required by the complainant;
  - action that can be taken to mitigate the injustice if it cannot be put right, e.g. providing specialist equipment or additional tuition for a child whose education has been adversely affected by maladministration in assessing for special educational need; and
  - financial compensation, where appropriate.

### **3. Financial Compensation**

- 3.1 A financial remedy can be part of injustice that has been caused by maladministration or service failure along with various forms of restorative justice. If a person has been put to unnecessary expense as a result of the council's actions, the Council may wish to recompense them. A financial remedy is for the injustice suffered, not for the maladministration/fault. Each case will need to be judged on its merits.
- 3.2 The Local Government Ombudsman recommends the following key principles should be applied in deciding whether and what financial remedy is appropriate:
  - A financial remedy is for injustice suffered, not for the maladministration/fault. Therefore the reason for any financial remedy

should always be linked explicitly to the injustice. Wherever possible, a financial remedy should relate to an actual, quantifiable loss incurred by the complainant as a result of the injustice.

- Financial remedies of a 'notional amount' (i.e. where it is not possible to identify a quantifiable loss) should only be recommended after other forms of restorative justice have been properly considered.
- A financial remedy in respect of a complainant's time and trouble should be quantified wherever possible and only recommended if the complainant has had to ensure delays and/or difficulties which are clearly over and above what would reasonably be expected. These remedies should not be recommended as a matter of standard practice, or for simply having to negotiate a complaints process.
- Similarly, a payment for distress should only be recommended where the complainant has clearly suffered significantly more than if the situation had been managed correctly. Such payments should be exceptional, not standard, practice.
- Financial remedies should only be recommended where there is significant injustice. An apology may suffice for injustice of a lower level.
- From the outset, written and verbal communication with complainants should ensure that they do not have unrealistic expectations about financial remedy.

3.3 Cases where significant compensation is being requested or considered and those where compensation is being considered for distress or worry caused by the Council, will be decided on by the Chief Officer or Director concerned, in consultation with the Corporate Complaints Officer, the Chief Solicitor and, where appropriate, elected members.

#### **4. Reviews**

4.1 If a complaint is upheld, the council should, as a matter of routine, consider whether there is a need for a change in procedures or whether there are some lessons to be learnt which may have wider application.

#### **5. Timescales**

5.1 The department(s) dealing with the complaint should specify, and adhere to, a timescale within which the remedy will be implemented.

N.B Further advice on remedies and information on how they are dealt with by the Local Government Ombudsman is available in "Remedies – Guidance on Good Practice 6", Commission for Local Administration, February 2005 (LGO 307 (02.05)) and also "The use of financial Remedies", Local Government Ombudsman, July 2011. Website: [www.lgo.org.uk](http://www.lgo.org.uk)