

PERTH AND KINROSS COUNCIL

FORMAL COMPLAINTS PROCEDURE

Version 3 (October 2008)

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1. INTRODUCTION

- 1.1 The Council is determined to deliver quality services to meet the needs of its customers. It is committed to providing a Formal Complaints Procedure which is responsive to the service users, works timeously, and acknowledges when things go wrong and seeks to correct them.

2. AIMS AND OBJECTIVES

- 2.1 The underlying principle is that customers have a right to complain if they are dissatisfied with any aspect of service. This procedure aims to facilitate that right, and to demonstrate that the Council responds to and learns from complaints where they are justified.
- 2.2 This procedure covers the way the Council handles formal complaints and will be the Council's mandatory route for complaints handling where other procedures do not exist. Customers have a right, however, to complain directly to a Councillor, MSP or MP. Customers also have a right to take complaints to the Scottish Public Services Ombudsman if they are not satisfied with the way the Council has handled their complaint, however the Ombudsman will not usually investigate until the Council's complaints process has been completed.
- 2.3 Customers can complain in person, by telephone, letter or e mail. Whatever means is used to register a complaint, customers will be asked to state clearly:
- What they feel the Council has done wrong
 - What the Council might do to put it right
- 2.4 Complaints will be dealt with in a confidential manner, and knowledge of details will be limited to those directly involved in dealing with the complaint and any subsequent action which might follow.
- 2.5 The Council needs to be able, not only to respond appropriately to a justified complaint with a timely explanation and/or apology, but to learn from mistakes. Information from complaints handling will inform service and policy development.
- 2.6 This procedure sets down the desired standards and practices for handling complaints which are intended as a corporate minimum. All Services must achieve at least this standard.

3. FORMAL COMPLAINT DEFINITION

- 3.1 The Formal Complaints Procedure defines a complaint as

“A complaint is a customer contact which expresses unhappiness or dissatisfaction with a council service, policy or staff member”

- 3.2 However, the Council requires to define and distinguish a formal complaint from a “service request/enquiry” or “customer contact”. For many Services the Council relies partly on customers to tell us when something is wrong (for example, reporting faulty street lamps or un-emptied wheeled bins). The first time an issue is drawn to our attention, the initial “customer contact” or “request for service” will not normally be treated as a complaint.
- 3.3 Every effort will be made to resolve an issue quickly, at first contact, as this is the crucial stage where the majority of customer issues should be resolved.
- 3.4 In the event that the customer contact cannot be resolved quickly and satisfactorily at the point of service delivery, Stage One of the Complaints procedure should be followed.

STAGES AND RESPONSE TIMESCALES

4.1 Stages and Response Times

Stage One: *Service Area* response to complainant - overseen by the appropriate Senior Officer/Executive Director.
(Acknowledge within 5 working days and full reply within 15 working days from the date of receipt of the complaint)

Stage Two: *Chief Executive* or designate reviews second response to complaint. This is the final stage within the Council.
(Acknowledge within 5 working days and full reply within 15 working days)

A Complaints Process flow is attached at Appendix 1.

Stage One

4.2 Acknowledging a Formal Complaint

Acknowledgment correspondence will give a complaint reference number, a brief summary of the subject of complaint and the contact details of the person investigating the complaint. A leaflet about the Council’s Complaint procedure will be enclosed with the acknowledgement or provided as a link in an email acknowledgement.

In the event that a full response can be made within the 5 working days, an acknowledgment will not be sent.

4.3 Responding to a Formal Complaint

Complaints will be responded to as quickly as possible by the most appropriate method. Where a response or resolution is made by telephone, written records will be kept and written confirmation will follow. The response should contain:

- Details of the investigation
- Outcome(e.g, whether the complaint is upheld or not, action taken, apology, reason why the Council is unable to assist, offer of redress)

- Information on the right of further redress if the complainant remains dissatisfied.

4.4 Extending Response Timescales

Complaints of a more complex nature may take longer than the specified time limits to investigate. If this is the case, the complainant will be informed of the reasons why the timescales cannot be met and when they can expect to receive a full response.

Stage Two

4.5 Escalating Formal Complaints

At the end of Stage One, the complainant will be advised that if they remain dissatisfied, they have 28 days from the date of the full response letter to provide details of why they remain dissatisfied, at which time the complaint will pass to the last stage of the procedure. After Stage Two, the complainant has the right of recourse to the Scottish Public Services Ombudsman.

5. PUBLIC SERVICES OMBUDSMAN

- 5.1 If the complainant remains dissatisfied with the decision of the Chief Executive, he/she may contact the Scottish Public Services Ombudsman and ask for an independent investigation to be carried out. Contact details are:

The Scottish Public Services Ombudsman
 Freepost EH641
 Edinburgh EH3 0BR
 Telephone: 0870 011 5378
 Fax: 0870 011 5379
 Email: enquiries@scottishombudsman.org.uk
 Website: www.scottishombudsman.org.uk

- 5.2 The Ombudsman will refer complaints back to the complainant if they have not first been internally investigated by the Council, under their formal complaints procedure.

6. STATUTORY COMPLAINTS PROCEDURES

- 6.1 Other statutory complaints procedures, which are used by Community Care and Children's and Families Services, will continue to operate for specific situations and cases as required by statute.

7. SUPPORT TO COMPLAINANTS

- 7.1 The Council has a positive approach to complaints and will encourage complainants to seek the support of friends or other representatives, such as the Citizens Advice Bureau. Where someone else is acting on behalf of the complainant, a mandate form requires to be completed and signed by the complainant. This form then allows their nominated representative to deal with their complaint.

- 7.2 Where a child has Additional Support Needs, under the Additional Support for Learning Act 2004, and the complainant remains dissatisfied, they have the right to request independent mediation and, if necessary, dispute resolution.
- 7.3 If the help of an interpreter is required to make a complaint, the Council will arrange this. It should be noted that the services of interpreters, including British Sign Language interpreters, may need to be booked in advance. Further details of these services are available on the Council's website. www.pkc.gov.uk
- 7.4 The Council will provide a copy of the Complaints Procedure in another language or format on request.. See *paragraph 21 below for contact details of the Governance and Scrutiny Officer who will make the appropriate arrangements.*

8. EXCEPTIONS

- 8.1 Although it is intended to allow complaints to be dealt with under the complaints procedure there are a number of exceptions, as a result of other processes of review or Statute. These are:
- Complaints that constitute a disagreement with or refusal to accept legal matters which the Council is obliged to apply
 - A complaint where the customer or Council has started legal proceedings or has taken court action
 - Complaints to do with planning applications that are still being considered, unless it concerns an aspect of service delivery
 - A complaint that has already been heard by a court or tribunal
 - Insurance claims
 - Any other complaint where another formal route of appeal exists
 - A request for information in terms of the Data protection Act 1998
 - A request for information in terms of the Freedom of Information (Scotland) Act 2002
 - A request for an explanation on the application of the law
 - Most commercial or contractual matters

9. FORMAL COMPLAINTS INVOLVING MORE THAN ONE SERVICE

- 9.1 Generally, complaints involving more than one Service will be dealt with by the Service receiving the complaint. This Service will co-ordinate and agree a response on behalf of all the Services concerned.

10. MISDIRECTED FORMAL COMPLAINTS

- 10.1 If a complaint is misdirected, the receiving Service will acknowledge the complaint, inform the complainant of the Service responsible and pass the complaint immediately to the correct Service.

11. FORMAL COMPLAINTS WITH ALLEGATIONS OF A RACIST INCIDENT

- 11.1 If staff receive a report of a racist incident as part of a complaint, the complaint will immediately be referred to the Service Complaints Co-ordinator. Service Complaints Co-ordinators will ensure that the complaint is registered and managed using the Council's Racist Incidents Process.

12. FORMAL COMPLAINTS WITH ALLEGATIONS OF DISCRIMINATION

- 12.1 Complaints which are based on an allegation of any discrimination are similarly covered by statute and will be referred to the Service Complaints Co-ordinator, who will ensure that the complaint is registered and managed using the correct process.

13. COMPLAINTS AGAINST THE CHIEF EXECUTIVE

- 13.1 Any complaint against the Chief Executive would be referred to the Council's Monitoring Officer, Ian Innes. The Council's Monitoring Officer would determine the most appropriate means of investigation and resolution based on the type and content of the complaint. The procedures and timescales for any such complaint would be determined by the Monitoring Officer.

14. COMPLAINTS AGAINST COUNCILLORS

- 14.1 Councillors must comply with a Code of Conduct approved by the Scottish Parliament. This Code describes the high standards of conduct required from Councillors in carrying out their duties. The Standards Commission for Scotland is responsible for promoting and enforcing the Code. A copy of the Code is available from the Council's main offices or on the Commission's website at www.standardscommissionscotland.org.uk.
- 14.2 Complaints regarding the conduct of a Councillor should be referred to:

Mr D Stuart Allan
Office of Investigations
The Standards Commission for Scotland
Forsyth House
Innova Campus
Rosyth Europarc
ROSYTH
KY11 2UU
Telephone: 01383 428033
Fax: 01383 428019
Email: investigations@ethicalstandards.org.uk

15. ANONYMOUS COMPLAINTS

- 15.1 Complaints made anonymously will be given consideration and dealt with as appropriate, depending on the information available. Where a verbal complaint is made, the complainant will be given the assurance that concerns will be dealt with as confidentially as possible.

16. UNACCEPTABLE ACTIONS BY COMPLAINANTS

- 16.1 People may act out of character in times of trouble or distress. There may have been upsetting or distressing circumstances leading up to a complaint. Whilst the Council does not consider forceful or determined behaviour as unacceptable, complainants who are angry, demanding or persistent may result in unacceptable

behaviour towards Council staff. The Council will not tolerate abusive behaviour towards staff, verbal or otherwise.

16.2 A complainant may be deemed to be acting unacceptably if, for example:

- They are abusive to Council staff.
- They persistently make the same complaint, despite it having been fully investigated under the complaints procedure, or seek an unrealistic outcome and intend to persist until the outcome is achieved.
- They complain about an historical complaint that cannot be undone or remedied.
- They repeatedly change aspects of the complaint or the desired outcome part way through an investigation or after a formal response has been sent.

16.3 When staff handling a complaint consider the complainant's behaviour is unacceptable, they should refer the complaint to the Service Complaint Co-ordinator who will determine if this is the case. Such complaints will not be considered. However, the receipt and rejection of the complaint including the reason(s) for the rejection will be recorded by a Service Complaints Co-ordinator.

16.4 The full version of the Council's policy on Unacceptable Actions by Complainants is available from the Service Complaints Co-ordinator on request and is on the Council's website - www.pkc.gov.uk.

17. MONITORING

17.1 All complaints will be investigated and dealt with in strict confidence. However, to enable the Council's procedure to be adequately monitored and revised, as a result of complaints, if necessary, some statistical information about formal complaints received by the Council will be published, on an annual basis. No details of individual complaints or complainants will be revealed as part of this monitoring process.

17.2 Service Complaints Co-ordinators will be responsible for ensuring that timescales are met for each stage of the procedure, for maintaining adequate records and for recording and reporting the following information:

- Name and contact details of the complainant
- Details of complaint
- Tracking/progress information
- Resolution information
- Number of complaints which also include a racist incident
- Number of complaints which also contain an allegation of discrimination

17.3 The information will be used to produce management information to monitor performance, highlight areas of service failure and feed into the process for identifying areas for service improvement. The information will be reported to a range of key stakeholders, including Councillors, the Council's Executive Officer Team, key staff and the general public.

18. INFORMING THE PUBLIC AND STAFF

- 18.1 The formal complaints procedure will be publicised through leaflets, posters and the Council's website. Posters and leaflets advertising the complaints procedure will be displayed at all Council public reception points. All publicity materials for the procedure will be presented in plain English and be available in other languages and formats on request.
- 18.2 All staff will be aware of the complaints procedure and informed of the Service Complaints Co-ordinator from within their Service.

19. OTHER RELEVANT LEGISLATION

- 19.1 There are a number of key areas of legislation that the Council will adhere to in the course of dealing with complaints as follows:

19.2 Data Protection

The Data Protection Act 1998 provides protection for personal information which affects someone's privacy, and gives individuals the right to access information held about them, and to correct incorrect information held about them. Also, the Council must notify the Information Commissioner of all processing of personal information which it carried out on its behalf. The Council will ensure that the principles of the Data Protection Act are adhered to and that all personal information provided by complainants will only be held by the Council and shared with other Council Services where necessary.

19.3 Human Rights

The Human Rights Act 1998 states that public authorities must act compatibly with European Convention on Human Rights and should interpret the legislation and regulations with which we work, so far as is possible, in a way which is compatible with Convention rights. Our procedure reflects some of the main principles of the European Convention of Human Rights by:

- Providing a fair and accessible procedure
- Providing a two stage process, with review by the Chief Executive or designate
- Providing for disclosure of relevant information to all parties
- Reflecting the Council's equality policy by seeking to ensure that no person is the subject of discrimination

19.4 Freedom of Information

The Freedom of Information (Scotland) Act 2002 gives people the right to access information held by Scottish public authorities. The Act ensures that, subject to certain limited exemptions, anyone can receive information that they request from a public authority. The Council is committed to the principles of openness, transparency and accountability in its activities and supports the right of any person to seek information under the Act.

20. REVIEW

20.1 The formal complaints procedure will be subject to regular review and approval within the Council.

21. PROVISION OF INFORMATION IN OTHER LANGUAGES AND FORMATS AVAILABLE ON A REQUEST BASIS.

If you or someone you know would like a copy of this document in another language or format, (on occasion only a summary of the document will be provided in translation), this can be arranged by contacting
Customer Service Centre 01738 475000

إن احتجت أنت أو أي شخص تعرفه نسخة من هذه الوثيقة بلغة أخرى أو تصميم آخر فيمكن الحصول عليها (أو على نسخة معدلة لمخلص هذه الوثيقة مترجمة بلغة أخرى) بالاتصال ب:
الاسم: Customer Service Centre
رقم هاتف للاتصال المباشر: 01738 475000

اگر آپ کو یا آپ کے کسی جاننے والے کو اس دستاویز کی نقل دوسری زبان یا فارمیٹ (بعض دفعہ اس دستاویز کے خلاصہ کا ترجمہ فراہم کیا جائے گا) میں درکار ہے تو اس کا بندوبست سروس ڈیولپمنٹ Customer Service Centre سے فون نمبر 01738 475000 پر رابطہ کر کے کیا جاسکتا ہے۔

如果你或你的朋友希望得到這文件的其他語言版本或形式 (某些時候，這些文件只會是概要式的翻譯)，請聯絡
Customer Service Centre 01738 475000
來替你安排。

Jeżeli chciałbyś lub ktoś chciałby uzyskać kopię owego dokumentu w innym języku niż język angielski lub w innym formacie (istnieje możliwość uzyskania streszczenia owego dokumentu w innym języku niż język angielski), Proszę kontaktować się z
Customer Service Centre 01738 475000

P ežete-li si Vy, anebo n kdo, koho znáte, kopii této listiny v jiném jazyce anebo jiném formátu (v n kterých p ípadech bude p eložena pouze stručný obsah listiny)
Kontaktujte prosím Customer Service Centre 01738 475000 na vy ízení této požadavky.

Если вам или кому либо кого вы знаете необходима копия этого документа на другом языке или в другом формате, вы можете запросить сокращенную копию документа обратившись
Customer Service Centre 01738 475000

Complaints and Governance Officer
Tel 01738 475527

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