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**West Lothian  
Council**

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# **Complaints Handling Procedure**

**February 2013**

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## **Foreword**

West Lothian Council is committed to providing services to people living and working in our communities that are high quality, cost effective and accessible. Our services are designed and delivered to meet the needs and preferences of our customers and the council make sure that they are responsive to local people. There are clear standards to make sure services meet the expectations of our customers and that they are delivered in a manner that is professional, courteous and timely. Where a service has failed to meet the expectations of our customers, the council recognises their right to make a complaint and promises to handle and resolve all complaints properly, and where possible, to the customer's satisfaction. Monitoring and analysing complaints information also helps inform where the service need to improve.

This procedure sets out the required standards and practices for handling complaints for every service in the council. It has been developed by the council, working in consultation with the Scottish Public Services Ombudsman (SPSO).

This procedure aims to help the council "get it right first time" and to achieve quicker, simpler and more streamlined complaints handling with local, early resolution by competent, well-trained staff.

**Graham Hope**  
Chief Executive

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## 1. How to use West Lothian Council Complaints Handling Procedure

- 1.1. This document explains to council staff how to handle complaints.
- 1.2. The procedure sets out the required standard and practices for all staff in how to handle complaints. It is designed for internal use and contains references and internet links to additional information on the procedure, such as how to record complaints and the criteria for signing off and agreeing time extensions. These explain how to process, manage and reach decisions on different types of complaints.
- 1.3. The complaints procedure is not the mechanism through which staff should raise complaints about employment issues. This should be dealt with through the [Fair Treatment at Work policy](#) or the [grievance procedure](#).
- 1.4. For more information, please also refer to the 'SPSO Statement of Complaints Handling Principles' and best practice guidance on complaints handling from the Complaints Standards Authority at the SPSO (<http://www.valuingcomplaints.org.uk>).
- 1.5. There are terms referenced throughout the procedure which have an integral role in the handling and management of complaints (there is a detailed description of roles and responsibilities in section 6). For easy reference, a summary of these terms is contained in table 1:

Term	Description
Scottish Public Services Ombudsman ( <b>SPSO</b> )	The SPSO is the final stage for complaints about public services in Scotland and will consider complaints where the customer is dissatisfied with the outcome of the complaints process (see 5.8).
Group Designated Complaints officer ( <b>Group DCO</b> )	To manage the complaints handling procedures on behalf of Heads of Service, including responsibility for monitoring and reporting performance in complaints handling (see 6.5).
Designated Complaints Officer ( <b>DCO</b> )	A point of contact for the handling of complaints, including ensuring that individual complaints are captured, recorded and handled correctly (see 6.6).

## 2. What is a Complaint?

2.1. West Lothian Council's definition of a complaint is:

***“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.”***

2.2. A complaint may (this list does not cover all issues) 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

2.2.1. [Appendix 1](#) provides a range of examples of complaints the council may receive, and how these may be handled.

2.3. 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 the council have already given a final decision.

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

2.3.2. [Appendix 2](#) gives more examples of 'what is not a complaint' and how to direct customers appropriately.

## 2.4. Handling Anonymous Complaints

2.4.1. The council values all complaints. This means the council treat all complaints, including anonymous complaints, seriously and will take action to consider them further, wherever there is sufficient information and it is appropriate to do so. Generally, the council will consider anonymous complaints if there is enough information in the complaint to enable further investigation. However, if an anonymous complaint does not provide enough information to enable further action, the council may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by a senior manager or group designated complaints officer.

- 2.4.2. If an anonymous complaint makes serious allegations, the service will refer it to a senior officer immediately.
- 2.4.3. If the council pursues an anonymous complaint further, the issue will be recorded as an anonymous complaint on the complaints system. This will help to ensure the completeness of the complaints data and allow corrective action to be taken, where appropriate.

## **2.5. What if the Customer Does Not Want to Complain?**

- 2.5.1. If a customer has expressed dissatisfaction but does not want to complain, the customer should be informed that the council consider all expressions of dissatisfaction, and that complaints provides the opportunity to improve services. Staff should encourage the customer to submit their complaint (written or verbal) and allow the council to deal with it through the complaints handling procedure. This will ensure that the customer is updated on the action taken and gets a response to their complaint.
- 2.5.2. However, if the customer insists they do not wish to complain, record the issue as an anonymous complaint. This will ensure that the customer's details are not recorded on the complaints database and that they receive no further contact about the matter. It will also help to ensure the completeness of the recorded complaints data and will highlight the matter for consideration and corrective action, where appropriate.
- 2.5.3. Please refer to the example in [Appendix 2](#) for further guidance.

## **2.6. Who Can Make a Complaint?**

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

## **2.7. Complaints Involving More Than One Service or Organisation**

- 2.7.1. If a complaint relates to the actions of two or more council services, staff must tell the customer who will take the lead in dealing with the complaint and explain that they will get one response covering all issues raised.
- 2.7.2. If a customer complains to the council about the service of another agency or public service provider, but the council has no involvement in the issue, the customer should be advised to contact the appropriate organisation directly.
- 2.7.3. However, where a complaint relates to a council service and the service of another agency or public service provider, (for example a housing association or a

government department), and the council has a direct interest in the issue, the complaint about the council must be handled through the complaints handling procedure. If there is a requirement to make enquiries to an outside agency in relation to the complaint always take account of data protection legislation and the council's guidance on handling customer's personal information. The Information Commissioner has detailed guidance on data sharing and has issued a data sharing code of practice.

2.7.4. Such complaints may include:

- a complaint made to the council about a claim for housing benefit where the customer's dissatisfaction relates to the service the council has provided and the service the Department of Work and Pensions (DWP) has provided
- a complaint made to the council about antisocial behaviour where the customer's dissatisfaction relates to the service the council have provided and the service the housing association has provided.

## 2.8. Care Complaints

2.8.1. Local Authorities that provide care services must be registered with the Care Inspectorate. Anyone receiving care services from the council has the right to complain either directly to the Care Inspectorate or to the council.

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

For more information, visit the care inspectorate's website ([www.careinspectorate.com](http://www.careinspectorate.com)) or contact:

Telephone: 0845 600 9527 | Fax: 01382 207 289

Email: [enquiries@careinspectorate.com](mailto:enquiries@careinspectorate.com)

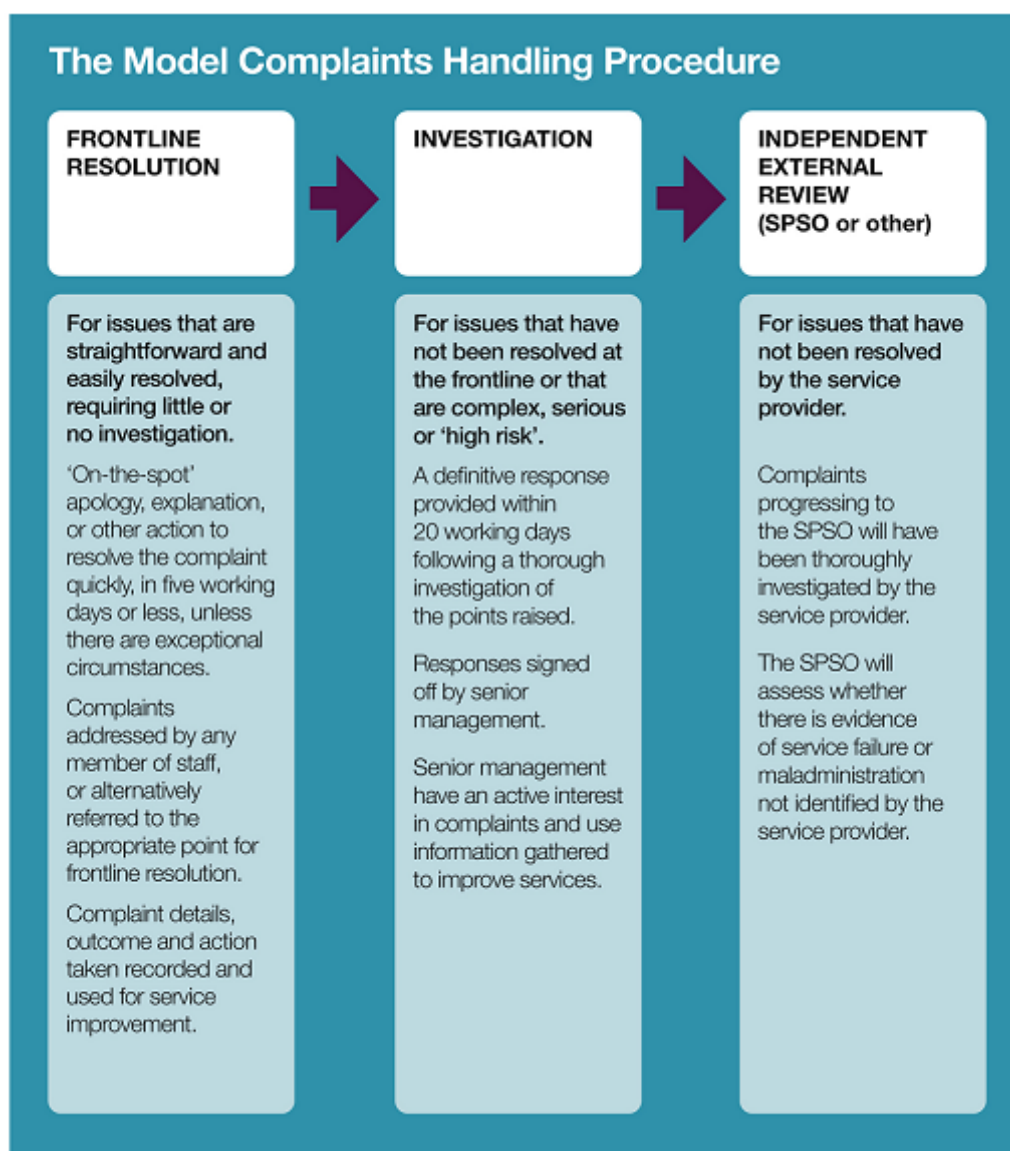
Alternatively, complete an online complaints form at: [www.careinspectorate.com](http://www.careinspectorate.com)

### 3. The Complaints Handling Process

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

3.1.1. The complaints process provides two opportunities to resolve complaints internally:

- frontline resolution, and
- investigation



3.1.2. For clarity, the term 'frontline resolution' refers to the first stage of the complaints process. It does not reflect any job description within the council but means seeking to resolve complaints at the initial point of contact where possible.



## 4. Stage One: Frontline Resolution

- 4.1. Frontline resolution aims to quickly resolve straightforward customer complaints that require little or no investigation. Any member of staff may deal with complaints at this stage.
- 4.2. 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.
- 4.2.1. [Appendix 1](#) gives examples of the types of complaint the council may consider at this stage, with suggestions on how to resolve them.
- 4.3. 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.
- 4.4. In either case, staff 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. Staff may also explain that, as an organisation that values complaints, the council may use the information when service standards are reviewed.
- 4.5. A customer can make a complaint in writing, in person, by telephone, by email or online, or by having someone complain on their behalf. Frontline resolution should always be considered, regardless of how the customer's complaint has been received.

### 4.6. What to do When Staff Receive a Complaint

- 4.6.1. On receiving a complaint, staff must first decide whether the issue can indeed be defined as a complaint. The customer may express dissatisfaction about more than one issue. This may mean one element will be treated as a complaint, while directing the customer to pursue another element through an alternative route (see [Appendix 2](#)).
- 4.6.2. If staff have received and identified a complaint, record the details on the complaints system.
- 4.6.3. The service designated complaints officer or a responsible officer defined by the service will then review the service complaint to identify whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated before the customer can be given a suitable response. Staff must escalate these complaints immediately to the investigation stage.
- 4.6.4. Staff must consider four key questions before deciding whether frontline resolution is appropriate (table 2):

Table 2: Four Key Questions to determine suitability for Frontline Resolution	
Question	Answer
1. What exactly is the customer's complaint (or complaints)?	It is important to be clear about what exactly is the nature of the customer complaint. Staff may need to ask the customer for more information and probe further to get a full picture.
2. 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 staff may need to probe further to find out what the customer expects, and whether they can be satisfied.
3. Can I achieve this, or explain why not?	<p>If staff can achieve the expected outcome by providing an on-the-spot apology or explain why it cannot be achieved, staff should do so. If the service consider an apology is appropriate, the SPSO's guidance on the subject could be followed: <a href="#">SPSO guidance on apology</a>.</p> <p>The customer may expect more than the council can provide. If so, the customer should be informed as soon as possible. An example would be where the customer is so dissatisfied with a kitchen refurbishment that they demand a new kitchen, but the council are only willing to repair any broken units.</p> <p>Generally, staff may have to convey the decision face to face or on the telephone. If staff convey the decision face to face, by telephone or by email, there is not a requirement to write to the customer as well, although the service may choose to do so and a record must be kept of any correspondence. A full and accurate record of the final decision should be kept.</p>
4. If I can't resolve this, who can help with frontline resolution?	If staff cannot deal with the complaint because, for example; if the issue, or area of service involved, is unfamiliar, the complaint should be passed to someone who can resolve it.

#### 4.7. Timelines

- 4.7.1. Frontline resolution must be completed within **five working days**, although in practice the council would often expect to resolve the complaint much sooner.
- 4.7.2. Staff 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.

#### 4.8. Extension to the Timeline

- 4.8.1. In exceptional circumstances, where there are clear and justifiable reasons for doing so, staff may request an extension of **no more** than five working days with

the customer. This must only happen when an extension will ensure that the complaint will be resolved at the frontline resolution stage.

- 4.8.2. When staff ask for an extension, authorisation must be given by the appropriate senior manager (or delegate), who will decide whether an extension will effectively resolve the complaint. If staff or contractor(s) are temporarily unavailable to support the frontline complaints resolution stage, a senior manager (or delegate) may choose to authorise an extension. If the issues are so complex that they cannot be resolved during this further five days, it may be more appropriate to escalate the complaint straight to the investigation stage. Staff must tell the customer about the reasons for the delay, and when they can expect the response.
- 4.8.3. If the customer does not agree to an extension but it is unavoidable and reasonable, a senior manager must decide on the extension. Staff must then tell the customer about the delay and explain why the extension was granted.
- 4.8.4. It is important that such extensions do not become the norm. Rather, 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 the service receives the complaint.
- 4.8.5. The proportion of complaints that exceed the initial five-day limit will be evident from reported performance indicators. These performance indicators will be reported to the senior management team on a quarterly basis.
- 4.8.6. [Appendix 3](#) provides further information on timeliness.

#### 4.9. **Closing the Complaint at the Frontline Resolution Stage**

When staff have informed the customer of the outcome, there is not a requirement to write to the customer, although the service may choose to do so. Staff must ensure that the response to the complaint addresses all areas that the council are responsible for and explains the reasons for the 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.

#### 4.10. **When to Escalate to the Investigation Stage**

- 4.10.1. A complaint must be escalated to the investigation stage when:
  - frontline resolution was attempted 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

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

4.10.3. 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. The SPSO defines potential high-risk or high-profile complaints as those that may:

- 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.

4.10.4. Some examples of serious or high risk complaints are listed in table 3:

<b>Table 3: Examples of Serious or High Risk Complaints</b>	
<b>Complaint</b>	<b>Possible Actions</b>
A complaint is received relating to building materials that fell from a scaffold, narrowly missing the tenant who was in the garden.	<ul style="list-style-type: none"> <li>• Prompt action would be taken to make the scaffold secure</li> <li>• A full review of current working practices to be carried out</li> <li>• New procedures relating to scaffolding to be put in place</li> </ul>
Two separate letters of complaint are received that state that the driver of a council vehicle, whilst in standing traffic, made inflammatory gestures to members of the public.	<ul style="list-style-type: none"> <li>• Acknowledge the written complaint and state that it will be investigated</li> <li>• Informally interview the staff member</li> <li>• Instigate a full investigation under Council's disciplinary procedures</li> <li>• Independently interview witnesses and staff</li> <li>• Hearing to be held, if appropriate</li> <li>• Customer to be informed of action taken (detail not given to customer in relation to the action).</li> </ul>
A landlord complains about the length of time taken by the benefit service to deal with information he provided has led to a situation where he is substantially out of pocket due to unpaid rent. The landlord requests compensation from the council.	<ul style="list-style-type: none"> <li>• A full investigation to be carried out</li> <li>• Complaint would be partially upheld</li> <li>• Compensation would be made to the landlord</li> <li>• Service procedures to be reviewed and modified to ensure that this failure does not occur again</li> </ul>
A customer complains about multiple failures to carry out repairs or provide information about planned capital works relating to her home.	<ul style="list-style-type: none"> <li>• Manager attends and carries out a full survey of outstanding issues, then agrees a schedule with the customer for completion of the works.</li> <li>• Procedures to be reviewed to ensure that the customer is always made fully aware of any planned works relating to their home</li> </ul>

## **5. Stage Two: Investigation**

5.1. 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 the position of the council can be stated. 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.

5.2. 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 the council's final position.

### **5.3. What to do When you Receive a Complaint for Investigation**

5.3.1. It is important to be clear from the start of the investigation stage exactly what is being investigated and to ensure that both the customer and the service understand the investigation's scope.

5.3.2. 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 is 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?

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

5.3.4. Where possible staff should also clarify what additional information is needed to investigate the complaint. The customer may need to provide more evidence to help the service reach a decision.

5.3.5. Details of the complaint must be recorded on the system for recording complaints. Where appropriate, this will be done as a continuation of frontline resolution. The details must be updated when the investigation ends.

5.3.6. If the investigation stage follows attempted frontline resolution, all case notes and associated information must be handed over to the officer responsible for the investigation and this handover must be recorded on the complaints management system.

### **5.4. Timelines**

The following deadlines are appropriate to cases at the investigation stage:

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

## 5.5. Extension to the Timeline

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

5.5.2. If there are clear and justifiable reasons for extending the timescale, senior management (or delegate) will set time limits on any extended investigation, as long as the customer agrees. Staff 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 (or delegate) 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
- staff 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

5.5.3. These are only a few examples, and the service must judge the matter in relation to each complaint. However, an extension would be the exception and services should attempt to deliver a final response to the complaint within 20 working days.

5.5.4. 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 will be reported to senior management on a quarterly basis.

5.5.5. [Appendix 3](#) provides further information on timelines.

## 5.6. Mediation

5.6.1. 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, the service 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.

5.6.2. Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions.

5.6.3. If the service and the customer agree to mediation, revised timescales will need to be agreed.

5.6.4. Table 4 contains examples of mediation carried out by the council:

<b>Table 4: Examples of Mediation</b>	
<b>Complaint</b>	<b>Mediation</b>
<p>A Primary School Head Teacher had serious concerns regarding a pupil's behavioural difficulties in the classroom. The pupil was from a split home and stayed with one parent, who had both mental health issues and severe learning difficulties. The parent regularly cancelled meetings to discuss the pupil's behaviour and on the rare occasions when the parent did meet with the Head Teacher, the parent was verbally abusive. The parent then made a complaint about the Head Teacher, stating that the Head Teacher was unreasonable and that the child's problems were the fault of the school.</p> <p>Simultaneously the Head Teacher, having experienced enough of the abusive behaviour, no longer wished to deal with the parent but remained extremely concerned for the child.</p> <p>The relationship between the parent and Head Teacher had broken down completely and local resolution could not be achieved through the normal channels.</p>	<p>Mediation was carried out.</p>
<p>A neighbour's teenage son was taking music as one of his subjects at school. As a result of this, he would practice the drums within the family home. The neighbours constantly complained about the noise. A visit was made by the antisocial behaviour team and a decibel level was taken. This showed that the noise of the drums was within the prescribed decibel level for the time of day.</p> <p>Following the audio check, it was proposed that because the behaviour was not serious antisocial behaviour, and that the noise would not be in breach of the prescribed limits, a mediation solution would be the most appropriate action in this circumstance.</p>	<p>This was submitted for mediation.</p>

### 5.7. Closing the Complaint at the Investigation Stage

The service must let the customer know the outcome of the investigation, in writing or by the customer's preferred method of contact. The response to the complaint must address all areas that the council are responsible for and explain the reasons for the decision. The decision and details of how it was communicated to the customer must be recorded on the complaints system. The service 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

## 5.8. Independent External Review

- 5.8.1. Once the investigation stage has been completed, the customer has the right to approach the SPSO if they remain dissatisfied.
- 5.8.2. The SPSO considers complaints from people who remain dissatisfied at the conclusion of the council's complaints procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way the council have handled the complaint.
- 5.8.3. The SPSO recommends that services use the wording below to inform customers of their right to ask SPSO to consider the complaint. The SPSO also provides a leaflet, [The Ombudsman and your organisation](#), which services 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](http://www.spsso.org.uk/contact-us)

Website: [www.spsso.org.uk](http://www.spsso.org.uk)

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

## 5.9. Factoring Complaints

- 5.9.1. The SPSO does not normally look at complaints about any factoring service that is provided. From October 2012, there will be a new route for these complaints: the Homeowners Housing Panel. They will work to resolve complaints and disputes between home owners and property factors. So if a factoring customer is still dissatisfied after completing the investigation stage, they can go to the Homeowners Housing Panel. More information will be available on the SPSO website once the Panel is fully established.



## 6. Governance of the Complaints Handling Procedure

### 6.1. Roles and Responsibilities

6.1.1. Overall responsibility and accountability for the management of complaints lies with the Chief Executive and senior management.

6.1.2. The council's final position on the complaint will be signed off by an appropriate senior officer (or delegate) and the council will confirm that this is the final response. This ensures that senior management within the council are accountable for the decision. It also reassures the customer that their concerns have been taken seriously.

6.1.3. The roles and responsibilities in relation to complaints handling within the council are outlined below.

6.2. **Chief Executive:** The Chief Executive provides leadership and direction in ways that guide and enable the council to perform effectively across all services. This includes ensuring that there is an effective complaints handling procedure, with a robust investigation process that demonstrates how the council learn from the complaints it receives. The Chief Executive may take a personal interest in all or some complaints, or may delegate responsibility for the complaint handling procedure to senior staff. Regular complaints performance reports will be provided to the Chief Executive to ensure that there is an effective monitoring process

6.3. **Deputes Chief Executive:** On the Chief Executive's behalf, Deputes Chief Executive (or delegate) are responsible for:

- investigating complaints as required
- monitor complaints and the way the council learn from them
- deputising for the Chief Executive on occasion.

Deputes Chief Executive will delegate elements of complaints handling (such as investigations and providing a full response to the customer) to the appropriate Head of Service, as appropriate. In some instances, Deputes Chief Executive will take responsibility for preparing and signing decision letters to customers, so there is confidence that the investigation is complete and the response addresses all aspects of the complaint. Deputes Chief Executive will monitor the complaints process through regular performance reports.

6.4. **Heads of Service:** Heads of Service may be involved in the operational investigation and management of complaints handling within their area. As senior officers, the Heads of Service (or delegate) will be responsible for:

- ensuring that the service fully implements the complaints handling procedure
- managing complaints and the way the council learn from them
- overseeing the implementation of actions required as a result of a complaint(s)

6.5. **Group Designated Complaints Officer (Group DCO):** Each Head of Service has defined the role of the Group DCO to cover some, or all, of the activities listed below (as appropriate):

- to ensure that the complaint performance data is provided to the appropriate service officer to enter into the council's Performance Management System
- to ensure management reports are provided to relevant parties relating to service complaints information
- to represent their service at working groups examining complaints or the corporate complaints procedure
- to facilitate, when requested, the investigation and resolution of any complaint appeal or any complaint relating to a failure of the complaint process
- to assist, when requested, with the detailed analysis of complaints data within their service area or corporately
- to assist, when requested, with the development of the approved complaint management system(s)
- to monitor the quality of data entry into the approved complaint management system
- to monitor compliance with the corporate complaints procedure including timescales (or any statutory procedure that supersedes the corporate procedure)
- to train Designated Complaints Officers (DCOs) in relation to the service's complaints process(s)
- to liaise with the appropriate complaint management system administration team to arrange training for DCOs on the use of the complaint management system
- to monitor and sample data in the complaint management system to ensure that the data does not include any inappropriate or sensitive data
- to liaise with the Chief Executive's office regarding complaints to the Scottish Public Services Ombudsman

6.6. **Designated Complaints Officer (DCO):** Each Head of Service has defined the role of the DCO to cover some, or all, of the activities listed below (as appropriate):

- to act as a single point of contact for the handling of complaints, for a defined service area
- to manage the acknowledgement of each complaint and to facilitate the investigation and resolution of each complaint in accordance with the corporate complaints procedure (or any statutory procedure that supersedes the corporate complaints procedure)
- to advise relevant managers of each complaint
- to ensure that complaints are captured and that progress is monitored using an approved complaint management system
- to ensure that managers provide a response to each complaint within the required timescales
- to record the outcome of each complaint in the approved complaint management system
- to advise the Group DCO of any complaint appeal or complaint relating to a failure of the complaint process

6.7. **All council staff:** A complaint may be made to any member of staff in the council. So all staff must be aware of the complaints handling procedure and how to handle and record complaints at the frontline stage. Staff should be aware of the designated complaints officers in their service area so they can pass on complaints that they are unable to record or handle. The council encourage all staff to try to resolve complaints early (as close to the point of service delivery as possible) and quickly to prevent escalation.

#### 6.8. **Complaints about Senior Staff**

When serious complaints are raised against senior staff, the investigation will be conducted by an individual who is independent of the situation.

### 7. **Recording, Reporting, Learning and Publicising**

7.1. Complaints provide valuable customer feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve services across the council. The council must record all complaints in a systematic way so that services can use the complaints data for analysis and management reporting. By recording and using complaints information in this way, the council can identify and address the causes of complaints and, where appropriate, identify training opportunities and service improvements.

#### 7.2. **Recording Complaints**

7.2.1. To collect suitable data it is essential to record all complaints in line with SPSO minimum requirements, as follows:

- the customer's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the service the complaint refers to
- the date the complaint was closed at the frontline resolution stage (where appropriate)
- the date the complaint was escalated to the investigation stage (where appropriate)
- action taken at the investigation stage (where appropriate)
- the date the complaint was closed at the investigation stage (where appropriate)
- the outcome of the complaint at each stage
- the underlying cause of the complaint and any remedial action taken

7.2.2. The council has structured systems for recording complaints, their outcomes and any resulting action. These provide a detailed record of services that have failed to satisfy customers.

### 7.3. Reporting of Complaints

- 7.3.1. Complaints details are analysed for trend information to ensure the council identify service failures and take appropriate action. Regularly reporting the analysis of complaints information helps to inform management of where services need to improve.
- 7.3.2. On a quarterly basis the council will publish the outcome of complaints. This demonstrates the improvements resulting from complaints and shows that complaints can influence our services. It also helps ensure transparency in the complaints handling procedure and demonstrates to customers that the council value their complaints.
- 7.3.3. The council will:
- publicise on a quarterly basis complaints outcomes, trends and actions taken
  - continue to publish information on services improvements linked to received complaints.
- 7.3.4. This information will be reported quarterly to the senior management team and to the Performance Committee.

### 7.4. Learning from Complaints

- 7.4.1. At the earliest opportunity after the closure of the complaint, the Group DCO should always make sure that the customer and staff of the service involved understand the findings of the investigation and any recommendations made.
- 7.4.2. Senior management will review the information gathered from complaints regularly and consider whether the services could be improved or internal policies and procedures updated.
- 7.4.3. As a minimum, the council will:
- use complaints data to identify the root cause of complaints
  - take action to reduce the risk of recurrence
  - record the details of corrective action in the complaints system, and
  - systematically review complaints performance reports to improve service delivery
- 7.4.4. Where the council have identified the need for service improvement:
- the action needed to improve services must be authorised
  - an officer (or team) will be designated the 'owner' of the issue, with responsibility for ensuring the action is taken
  - a target date will be set for the action to be taken
  - the designated individual will follow up to ensure that the action is taken within the agreed timescale

- where appropriate, performance in the service area will be monitored to ensure that the issue has been resolved
- the service will ensure that staff learn from complaints.

#### **7.5. Publicising complaints performance information**

The council also report performance in handling complaints annually in line with SPSO requirements. This includes performance statistics showing the volumes and types of complaints and key performance details, for example on the time taken and the stage at which complaints were resolved.

#### **7.6. Maintaining Confidentiality**

Confidentiality is important in complaints handling. It includes maintaining the customer's confidentiality and explaining to them the importance of confidentiality generally. Legal requirements must always be taken into consideration when dealing with a complaint, for example, data protection legislation, as well as internal policies on confidentiality and the use of customers' information.

#### **7.7. Managing Unacceptable Behaviour**

7.7.1. The circumstances leading to a complaint may result in the customer acting in an unacceptable way. Customers who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate grievance.

7.7.2. A customer's reasons for complaining may contribute to the way in which they present their complaint. Regardless of this, the council must treat all complaints seriously and properly assess them. However, the council also recognise that the actions of customers who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards staff. The council will, therefore, apply current policies and procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from customers. When staff handling a complaint considers the complainant's behaviour is unacceptable, the complaint should be referred to the service Group DCO who will determine if this is the case. The Unacceptable Actions Policy should be followed when investigating the complainant's behaviour. However, the receipt and rejection of the complaint including the reason(s) for the rejection will be recorded by the Group DCO.

7.7.3. The full version of the council's policy on Unacceptable Actions by Complainants is available at the following location on the intranet:

<http://mytoolkit.westlothian.gov.uk/knowledge/subcatlisting.asp?LTid=29>

7.7.4. 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

## 7.8. Supporting the Customer

- 7.8.1. All members of the community have the right to equal access to the complaints handling procedure. Customers who do not have English as a first language may need help with interpretation and translation services, and other customers may have specific needs that the council will address to ensure easy access to the complaints handling procedure.
- 7.8.2. The council must always take into account the commitment and responsibilities to equality. This includes making reasonable adjustments to our service to help the customer where appropriate.
- 7.8.3. Several support and advocacy groups are available to support customers in pursuing a complaint and customers should be signposted to these as appropriate.

## 7.9. Time Limit for Making Complaints

- 7.9.1. The complaints handling procedure sets a time limit of **six months** from when the customer first knew of the problem, within which time they may ask the council to consider the complaint, unless there are special circumstances for considering complaints beyond this time.
- 7.9.2. The council will apply this time limit with discretion. In decision making the council will take account of the Scottish Public Services Ombudsman Act 2002 (Section 10(1)), which sets out the time limit within which a member of the public can normally ask the SPSO to consider complaints. The limit is one year from when the person first knew of the problem they are complaining about, unless there are special circumstances for considering complaints beyond this time.
- 7.9.3. If it is clear that a decision not to investigate a customer's complaint will lead to a request for external review of the matter, the council may decide that this satisfies the special circumstances criteria. This will enable the council to consider the complaint and try to resolve it.

## Appendix 1: Complaints

Table A1 provides examples of complaints that may be considered at the frontline stage, and suggest possible actions to achieve resolution.

**NOTE:** The complaints listed are for illustration purposes and services should assess each complaint on a case by case basis.

Table A1: Frontline Complaints and Possible Actions	
Complaint	Possible Actions to Achieve Resolution
Customer hands in a form to be sent to Pupil Placement at a frontline office which never got to its destination. Customer complains in person to office.	<ul style="list-style-type: none"> <li>• Apologise to the customer</li> <li>• Get a new form completed and sent via email directly to its destination</li> <li>• Review and improve back office process to ensure no repeat incidents occur</li> </ul>
Customer complains about the new self service machines in libraries	<ul style="list-style-type: none"> <li>• Apologise to the customer and explain why the machines have been installed</li> <li>• Offer to show the customer how the machine works</li> <li>• Ensure that customers are taken through the self-service process, if required</li> </ul>
The customer complains that their current address has been disclosed to a previous landlord	<ul style="list-style-type: none"> <li>• Investigate circumstances surrounding disclosure</li> <li>• Conduct risk analysis and examine process to identify any weaknesses and possible improvements</li> <li>• Implement improvements to process</li> <li>• Apologise to customer and advise of changes to process resulting from the issues highlighted in their complaint</li> </ul>
Customer applies for a refund of Council Tax on numerous occasions and does not receive a response, as stated within our service standards.	<ul style="list-style-type: none"> <li>• Full investigation carried out into why customer's email requests for refund had not been responded to</li> <li>• Process in place with regard to issue of bank refunds, which includes the issue of a letter to the customer advising them that the refund has been processed and to expect it to be credited to their bank account in the next few days. This was not issued in this case</li> <li>• Apologise to the customer</li> <li>• Discuss issue with member of staff who recommended and implemented a change in the process</li> </ul>
The customer complains that the surveyor does not attend site for a viewing of the commercial property	<ul style="list-style-type: none"> <li>• Apologise to the customer</li> <li>• Agree an alternative day and time</li> <li>• Answer any queries the customer had regarding the property</li> </ul>
The customer complains that a water leak repair has not been carried out properly.	<ul style="list-style-type: none"> <li>• Apologise to the customer</li> <li>• Raise issue with the roofing contractor for re-attendance/repair</li> <li>• Complainant and council staff inspected the repair after completion to ensure that the customer is satisfied</li> </ul>
Customer wishes for complaint to be raised in relation to the time for a repair to be carried	<ul style="list-style-type: none"> <li>• Conduct front line investigation to discover if a follow on repair line has been created for the asbestos check</li> <li>• Team Co-ordinator to contact customer and apologise for</li> </ul>

**Table A1: Frontline Complaints and Possible Actions**

Complaint	Possible Actions to Achieve Resolution
<p>out. Workmen were unable to carry out repair until an asbestos check was carried out. Customer states these checks have not been carried out 2 weeks later.</p>	<p>time taken for works to be carried out as a result of a breakdown in communications</p> <ul style="list-style-type: none"> <li>• Asbestos check and repair to be carried out</li> </ul>
<p>The customer complains that her council tax direct debit has been set up wrongly.</p>	<ul style="list-style-type: none"> <li>• Apologise to the customer and resolve the issue by properly updating the direct debit details</li> </ul>
<p>The customer complains that a road is not on our winter gritting route so has not been gritted.</p>	<ul style="list-style-type: none"> <li>• Find out which roads are on our agreed gritting routes, and explain this route to the customer</li> <li>• Use the customer's concerns to inform our future approach to gritting roads</li> </ul>
<p>The customer complains that his home carer turned up late and was smoking.</p>	<ul style="list-style-type: none"> <li>• The service manager to be contact the care service to discuss the matter</li> <li>• The care service to check the timetable for visits and discuss the complaint about smoking with the home carer</li> <li>• The care service to update the customer on the outcome of the complaint</li> <li>• The service to contact the customer to explain the policy, confirm the timing of visits (for example between 08:00 and 12 noon) and, where appropriate, apologise for the inconvenience</li> </ul>
<p>The customer expresses dissatisfaction in line with the definition of a complaint, but says she does not want to complain – just wants to tell us about the matter.</p>	<ul style="list-style-type: none"> <li>• Tell the customer that the council value complaints because they help to improve services. Encourage them to submit the complaint</li> <li>• In terms of improving service delivery and learning from mistakes, it is important that customer feedback, such as this, is recorded, evaluated and acted upon. Therefore, if the customer still insists that they do not want to complain, record the matter as an anonymous complaint. This will avoid breaching the complaints handling procedure. Reassure the customer that they will not be contacted again about the matter</li> </ul>



## Appendix 2: What Is Not a Complaint

A concern may not necessarily be a complaint. For example, a customer might make a routine first-time request for a service. This is not a complaint, but the issue may escalate into a complaint if it is not handled effectively and the customer has to keep on asking for service.

A customer may also be concerned about various council decisions. These decisions may have their own specific review or appeal procedures, and, where appropriate, customers must be directed to the relevant procedure. The following paragraphs provide examples of the types of issues or concerns that must not be handled through the complaints handling procedure. This is not a full list, and the service should decide the best route for resolution based on the individual case.

### Example 1: Planning

Customers may express dissatisfaction after the refusal of planning or other related permissions. An example would be dissatisfaction with a condition of consent or an enforcement action.

Planning applicants, or their agent, have the right to appeal to Scottish Ministers on planning or related matters determined by Committee or decided under delegated powers. Appeals are usually, but not always, decided by a Reporter from the Directorate of Planning and Environmental Appeals and can be considered on the basis of written submissions or by a hearing or public inquiry. The Reporter appointed to consider the appeal will manage the whole process and consider how to gather enough information to make a decision.

Customers who are dissatisfied with one of the council's planning decisions, and who have a right to appeal to Scottish Ministers, should be directed to this service. However, some complaints about planning matters are from third parties such as neighbours. These customers do not have the right of appeal to Scottish Ministers. These complaints should, therefore, be considered through the CHP.

### Example 2: Benefits

A customer may be dissatisfied or disagree with a decision about their housing or council tax benefit claim. This is not a complaint. The customer may ask the council to review the decision. If they remain dissatisfied at the outcome of the review or reconsideration of their claim, they may also appeal against our decision to an independent appeal tribunal. Where they want to do so, the service should direct them appropriately.

### Example 3: Claims for Compensation

A customer may seek compensation from the council if they consider the council liable. This includes issues such as personal injury or loss of or damage to property. Claims for compensation only are not complaints, so the service must not handle them through the complaints handling procedure. Staff should be clear, however, that where a customer wants to complain about the matter leading to their request for compensation, for example workmen damaging their home or the condition of a public road causing damage to a motor vehicle, staff may consider that matter as a complaint, but deal with the request for compensation separately. Services may decide to suspend complaint action pending the outcome of the claim for compensation. If services do this,

the customer must be notified to explain that the complaint will be fully considered when the compensation claim has been resolved.

If the service receives a compensation claim, staff should explain to the customer the process for seeking resolution in line with the council policy on these claims.

Services can still make 'time and trouble' payments for inconvenience suffered by customers, in line with council policy on such matters. This is distinct from compensation claims.

#### **Example 4: Licence Decisions**

The council are responsible for issuing various licences, including public entertainment, HMO (houses in multiple occupation), liquor and taxi licences. These have their own legal redress. Customers who are dissatisfied with these decisions will have to pursue this through the correct procedure for the type of licence they want.

#### **Example 5: School Exclusions and Placing Requests**

Decisions on appeals against a pupil's exclusion from school or a refusal of a school placing request are made by Committee. Once the Committee has ruled, the customer cannot then use the complaints process to continue their case.

#### **Example 6: School Exam Results**

Schools have devolved authority to offer examinations on the awarding body's behalf. In most cases this will be the SQA. If a customer is dissatisfied with the result of an exam, the school should refer it to the awarding body.

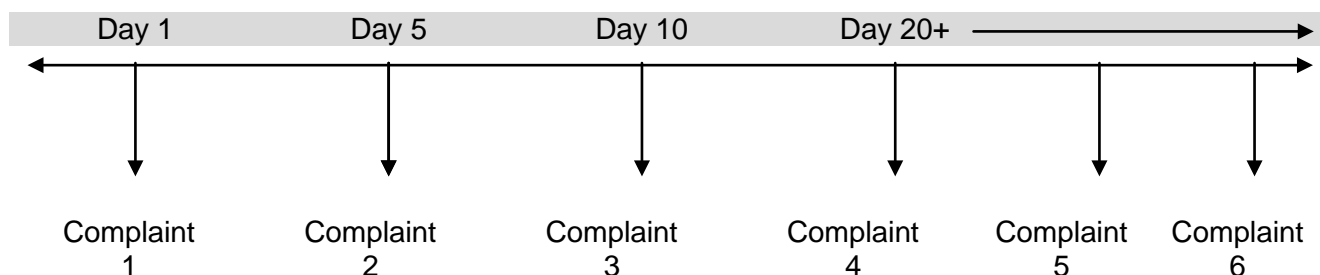
Remember that although there may be an alternative form of redress for the customer as detailed above, services must consider carefully whether or not a customer's representations should be managed within the complaints handling procedure. Dissatisfaction with certain council decisions may simply require an explanation and directing to the correct route for resolution. If, however, a customer says they are dissatisfied with the administrative process the council have followed in reaching a decision, the service may consider that dissatisfaction through the complaints handling procedure. An example may be a complaint from a customer who is dissatisfied with a decision and alleges that the council failed to follow or apply the appropriate guidance in reaching that decision.





### Timeline Examples

The following illustration provides examples of the point at which the council conclude the consideration of a complaint. It is intended to show the different stages and times at which a complaint may be resolved.



The circumstances of each complaint are explained below:

#### Complaint 1

Complaint 1 is a straightforward issue that may be resolved by an on-the-spot explanation and, where appropriate, an apology. Such a complaint can be resolved on day 1.

#### Complaint 2

Complaint 2 is also a straightforward matter requiring little or no investigation. In this example, resolution is reached at day three of the frontline resolution stage.

#### Complaint 3

Complaint 3 refers to a complaint that the council considered appropriate for frontline resolution. The council did not resolve it in the required timeline of five working days. However, the council authorised an extension on a clear and demonstrable expectation that the complaint would be satisfactorily resolved within a further five days. The council resolved the complaint at the frontline resolution stage in a total of eight days.

#### Complaint 4

Complaint 4 was suitably complex or serious enough to pass to the investigation stage from the outset. The council did not try frontline resolution; rather the council investigated the case immediately. The council issued a final decision to the customer within the 20 day limit.

#### Complaint 5

The council considered complaint 5 at the frontline resolution stage, where an extension of five days was authorised. At the end of the frontline stage the customer was still dissatisfied. At the customer's request, the council conducted an investigation and issued our final response within 20 working days. Although the end-to-end timeline was 30 working days the council still met the combined time targets for frontline resolution and investigation.

#### Complaint 6

Complaint 6 was considered at both the frontline resolution stage and the investigation stage. The council did not complete the investigation within the 20 day limit, so the council agreed a revised timescale with the customer for concluding the investigation beyond the 20 day limit.

**Appendix 4: The Complaints Handling Procedure**

