

# Newbury Town Council

## Complaints Procedure

### 1. Purpose

- 1.1. This document sets out detailed guidance notes for staff and members on the processes for dealing with complaints and comments from the public and explains our regulatory obligations. Information can also be found on the Council's website: [www.newbury.gov.uk](http://www.newbury.gov.uk).

### 2. Applicability

- 2.1. This procedure shall apply to all employees of Newbury Town Council, including elected members, contract, agency and other temporary staff, volunteers and employees of partner organisations working with the Council.

### 3. Roles and Responsibilities

- 3.1. The Chief Executive Officer (CEO) has overall responsibility for ensuring that council complaints are managed appropriately in accordance with these agreed procedures.
- 3.2. The CEO is responsible for:
  - Directing and reviewing this procedure.
  - Ensuring that there is effective consultation and communication on complaints related matters in terms of guidance, training, and processes.
  - Publishing & promoting the adoption of this council complaints procedure.
  - Ensuring compliance with published timescales, procedures, and working practices.
- 3.3. Managers and officers are responsible for the day-to-day management of Council complaints, including ensuring implementation of these procedures. Managers should check all initial responses prior to their transmission to complainants.
- 3.4. All Council staff are responsible for familiarising themselves with and ensuring that they comply with this procedure.

### 4. Regulatory Requirements

- 4.1. An effective comments and complaints procedure is required to investigate any expressions of dissatisfaction which may have been voiced by residents or customers of the Council and resolve these at an early stage.
- 4.2. In addition, the Council is committed to equal opportunities for everyone and must carefully and thoroughly investigate any complaint of discrimination or harassment due to any of the 'protected characteristics', as defined by the Equality Act 2010.

The protected characteristics are:

- Age
- Disability
- Gender re-assignment
- Marriage and civil partnerships
- Pregnancy and maternity
- Race
- Religion
- Sex
- Sexual orientation.

4.3. Complaints also offer an opportunity to receive valuable feedback on our services and policies so that we can build on our success and put things right where they might have gone wrong.

4.4. However, the process is not a 'blame exercise'. The aim is to identify where problems have occurred and to put things right.

## **5. The scope of complaints**

5.1. The Council defines a complaint as 'an expression of dissatisfaction about the Council or its services.' This means that if a member of the public contacts you in person, writing, or by phone and is unhappy with the Council for whatever reason then this must be defined as a complaint. Whilst for most matters it will be clear that a complaint is about a Council service, extra care and consideration should be given to complaints that may be covered by the sub-sections below.

### Contracted services

5.2. A number of the Council's services are provided by external contractors. The general procedure is to refer any comments regarding these contracted services directly to the appointed contractor although it should be noted that in a number of circumstances, customers have a right of appeal back to the Council. In some circumstances the complaints are dealt with directly by the Council and not the contractor. The exact position will depend on the terms of the contract. If you receive a comment which relates to a service which has been contracted out and you are unsure how to deal with it then please refer to your manager.

### Complaints made via Elected Members

5.3. These are complaints from a resident which are received via a Member of the Council. The complaint is handled in the usual way, but the response is supplied to the complainant and to the Member for information.

## **6. Exclusions**

6.1. Complaints about matters that have alternative courses of redress are usually excluded from the council process. These are:

- Decisions taken by full Council or Committees/ Sub-Committees
- Insurance claims
- Job applications

- 6.2. The only exceptions are when the complaint relates to the way in which the process has been handled, to the behaviour of a member of staff, or where there is an issue about discrimination.
- 6.3. This does not mean the complaint can be ignored, merely that an appropriate process for managing this aspect of the Council's work already exists. It should still be acknowledged, but such acknowledgement should make it clear that the correspondence will not be treated as a complaint – and why this is. If you are unclear what to do you should refer the matter to the appropriate manager.

## **7. Special circumstances within complaints handling**

### *Discrimination and harassment*

- 7.1. Complaints regarding discrimination or harassment due to someone having any of the protected characteristics shown in para 4.2 are taken very seriously by the Council and must be investigated carefully and thoroughly, following the procedure for second stage complaints (see below). Discrimination or harassment may be a hidden reason for a complaint, or it may be one of many issues in a complaint. It is important to remember that the complainant could either be a victim of discrimination or harassment or the person carrying out the discrimination or harassment.
- 7.2. Where it is felt that a crime is being committed that has not been reported to the police (e.g. a racially aggravated or sexual offence), it may be appropriate to encourage the victim of discrimination or harassment to go to the police. If in doubt about whether the offence in question constitutes a crime, the investigating officer should refer the matter to their manager.
- 7.3. If the alleged discrimination relates to a personnel matter then the CEO will need to be informed as part of the investigation process. Generally, these issues will be dealt with differently, and senior staff will need to be involved.

### *Compensation payments*

- 7.5. Where the likelihood of compensation could arise, then the Council's insurers should be notified of any potential insurance claims as soon as they are anticipated. The complainant should be informed that their insurance claim must be in writing to the appropriate Service. Complaints which are being treated as insurance claims do not form part of this Complaints Procedure.

### *Legal matters*

- 7.6. Where there are legal matters involved, they should be referred to the CEO. This will include, for example, cases where it is alleged that the Council or an officer has been negligent, or that the Council has broken the law, or is in breach of contract, and complaints made through solicitors.

### Personal conduct

- 7.4. Where it is alleged that an officer has acted in an improper or illegal fashion, or professional competence is called into question, the matter should be dealt with by a manager. The officer concerned can provide information in respect of the complaint but should not be involved in drafting a response. If the allegations are found to be baseless then the officer against whom they have been brought should be informed at the earliest opportunity and an apology should be sought by the Chief Executive from the complainant.

## **8. Confidentiality**

- 8.1. All complaints must be treated with confidentiality and due regard given to people's privacy. We are not at liberty to discuss a complaint with neighbours or to indicate the source of a complaint in response to an enquiry from another resident. Where complaints are discussed with interested parties (for example, Members of Council) this aspect of confidentiality must be stressed. Contact your manager for more information.

## **9. General principles of the Procedure**

- 9.1. All complainants have the right to have their concerns examined in line with the Council's Complaints Procedure.
- 9.2. The Council aims to deal with all complainants consistently, honestly, and proportionately, with no fear, favour, or discrimination.
- 9.3. The time spent on dealing with a complaint should be proportionate to the nature of the complaint and consistent with the outcome that is being sought being realistic and achievable.

## **10. Persistent, unreasonable, or prolific Complainants**

- 10.1. *"For us, unreasonable and unreasonably persistent complainants are those who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's complaints"* (The Local Government Ombudsman)
- 10.2. Some complainants refuse to accept the Council's response and these complainants may become persistent – they will continue to write, often to a number of officers, and/or Members in respect of a complaint the Council considers resolved.
- 10.3. Some complainants send in a large number of unrelated complaints, often about minor issues or issues which are not within the Council's remit. These complainants are prolific – the issues they raise require disproportionate amounts of staff time to respond, even where the issue is not one the Council can resolve.

## **11. Unsubstantiated complaints and abusive complainants**

- 11.1. An unsubstantiated complaint is one where the complainant, or their representative, has offered no evidence to permit the authority to investigate a complaint (for example, they may claim discrimination, but supply nothing which demonstrates how the discrimination has occurred). The authority will not investigate a complaint where the complainant offers no evidence to support their case. The complainant and the officer involved should be notified of any decision not to proceed with an investigation.
- 11.2. The authority reserves the right to refuse to accept phone calls or emails from complainants or representatives who are, or have become, abusive to officers, or who exhibit challenging behaviour which makes it difficult or impossible for officers to engage with them. Such complainants will be asked to communicate only by letter, and representatives may be asked to cease representation. These steps will be taken by the Council under their right to protect officers in their employment from harassment and abuse.

## **12. Vexatious Complaints**

- 12.1. The term vexatious is recognised in law and means *'denoting an action or the bringer of an action that is brought without sufficient grounds for winning, purely to cause annoyance to the defendant'*
- 12.2. A vexatious complaint is one that is pursued, regardless of its merits, solely to harass, annoy, or subdue somebody; something that is unreasonable, without foundation, frivolous, repetitive, burdensome, or unwarranted.
- 12.3. A very small minority of residents make complaints that are vexatious, in that they persist unreasonably with their complaints or make complaints in order to unnecessarily aggravate the Council rather than genuinely to resolve a grievance. Their actions may hinder the Council's ability to investigate their complaint or the complaints of others. This behaviour may occur at any time before, during or after a complaint has been investigated.
- 12.4. This may involve making serial complaints about different matters or continuing to raise the same or similar matters repeatedly. Their method and frequency of contact with the Council can hinder the efficient consideration of their complaints and the ability of officers to provide a satisfactory outcome.
- 12.5. Some individuals may also display threatening and abusive behaviour or harassment when contacting the Council.
- 12.6. How we manage such complainants will depend upon the individual circumstances of the case. If for instance their actions adversely affect the health and safety of staff and our ability to do our work or provide a service to others, we may need to address unacceptable behaviour by restricting contact with our offices.

### **13. The Council's Complaints Procedure**

13.1. There are three stages to the complaints procedure, the initial stage (Stage 1), the review stage (Stage 2), and the Council or Committee stage (Stage 3). The complaint may come from the complainant or from a representative acting on their behalf.

#### Initial Stage (Stage 1)

13.2. This stage is usually managed by the relevant service unit and includes:

- recording the comment/complaint;
- acknowledging receipt of the comment/complaint (where appropriate);
- providing a response and informing the customer of their right to a review.

13.3. Complaints can be submitted on a form, by letter, email, or phone. The form is a useful template for the information we generally require:

- contact details;
- nature of the complaint – how has the council let them down;
- any harm or loss which has been caused;
- what they want to be done to resolve the complaint;
- who else they have discussed this with at the council;
- If the complaint is about discrimination, substantiating information to support the complaint. See Sections 7.1 to 7.3 for the handling of such complaints.

13.4. Complaints may be submitted on behalf of constituents by Members of the Council or MPs. If submitted by Members, the member of staff dealing with the complaint can discuss the complaint informally to see what resolution can be reached – a formal response may not be required. Members should refrain from promising a resolution the Council may not be able to provide.

13.5. Services should acknowledge complaints which come to them within 3 working days of receipt and add the details to any log.

13.6. In general Stage 1 complaints are answered by the service. The response should address all issues and offer an apology if an error has occurred. Common sense needs to be applied when dealing with telephone complaints. A written acknowledgement or reply may not be necessary, but action must be taken to address the concern.

13.7. You should provide a written reply to the customer within 5 working days of receipt. If it is not possible to provide a full reply within this period provide a holding response within 5 working days explaining when a full reply will be given.

13.8. When you send your final reply you must include a standard wording advising them of their rights for a Stage 2 review, and a copy of, or a link to, the Council's 'Your Right to a Review - Stage 2 Complaints' leaflet. This explains how the customer can have their complaint reviewed by the CEO.

### Review Stage (Stage 2)

- 13.9. If the customer remains dissatisfied with the Stage 1 response, their complaint can be reviewed at Stage 2. This involves review of the issue by the CEO. In order for the complaint to be reviewed, the complainant must write to request this within 10 working days of being made aware of their Stage 1 response
- 13.10. Stage 2 requests should be sent directly to the CEO but staff in the service which dealt with the original complaint may also receive a letter expressing dissatisfaction with the Stage 1 response. All such letters should be treated as a request for a Stage 2 review.
- 13.11. Stage 2 reviews should be acknowledged within 3 working days of receipt.
- 13.12. The CEO should respond to the complainant setting out the result of the review within 15 working days of receipt. In the event that the review cannot be completed within this period, for example due to periods of sickness or annual leave, then an interim response must be provided.
- 13.13. When the CEO provides a final response it must be made clear that if the complainant remains dissatisfied then they have the right to request that their complaint is heard by a meeting of the Council or the relevant Committee or Sub-Committee of the Council (Stage 3).

### The Council or Committee Stage ( Stage 3)

- 13.14. This Stage is based on the NALC (National Association of Local Councils) model, and the procedure will be as follows:
- 13.15. The complainant should outline the grounds for complaint and, thereafter, questions may be asked by the CEO or other nominated officer or by members if this is a meeting of the complaints Committee or Sub-Committee.
- 13.16. The CEO or other nominated officer (or if the complaint concerns them, another member of staff or a member) will have an opportunity to explain the Council's position and questions may be asked by the complainant.
- 13.17. The CEO or other nominated officer, or as the case may be, the complaints Committee or Sub-Committee and then the complainant should be offered the opportunity to summarise their respective positions.
- 13.18. The complainant should be advised when a decision about the complaint is likely to be made and when it is likely to be communicated to them.
- 13.19. The decision should set out the reasons why the meeting made its decision and any recommendations for future action by the Council.
- 13.20. The decision should be conveyed by the CEO to the complainant as soon as possible.