

## **East Devon District Council Complaints Procedure**

We pride ourselves on delivering high quality, value for money services in East Devon and are committed to providing what you need, in the way you want and to the standard you expect.

We believe that dealing effectively with complaints is essential to providing good services.

### **Purpose**

The purpose of this document is to:

- Define what a complaint is, and who can make a complaint.
- Explain how to make a complaint.
- Explain the process we will follow when dealing with a complaint so that everyone knows what they can expect.
- Set out how we will monitor complaints, use information to improve services and identify training needs.

### **Our guiding principles**

- We will put the customer at the heart of the process, showing empathy and understanding for the issues they raise.
- We will treat all complaints seriously with an honest and open mind and do everything we can to deal with them efficiently and effectively
- We will be open minded and flexible in our approach while operating within our process.
- We will say sorry if we have made a mistake, or something has gone wrong, and we will put it right as soon as possible.
- We will aim to resolve complaints at the earliest opportunity.
- Our responses will be open and honest, based on the evidence available, address all elements of the complaint, and provide clear explanations for decisions made.
- We will ensure our procedure is equally accessible irrespective of age, disability, gender, sexual orientation, race, religion or belief.
- We will provide effective support, guidance and advice about advocacy, conciliation or mediation services.
- We will use complaints information in a positive way to identify training requirements, improve processes, and share learning to prevent similar occurrences in the future.

## **What is a complaint?**

We define a complaint as:

'An expression of dissatisfaction with our service (whether justified or not) which requires a response'.

A complaint could be in relation to any of the following examples:

- We have made a mistake in the way we have provided a service.
- There has been a delay in providing a service.
- We have failed to deliver a service – this could relate to quality, standard or service level.
- Our processes or policy have not been followed.
- Our legal or regulatory requirements have not been met.
- We have not delivered to a commitment or promise.
- Our staff have been rude and unhelpful or not conducted themselves correctly.

This is not an exhaustive list.

## **What is not a complaint?**

### **Informal service issues:**

We encourage all our staff to work with customers and to try to find a resolution to any expressions of dissatisfaction without the need to use the formal complaints process.

In many cases we can resolve an issue very quickly – by putting the problem right straight away. We consider these types of cases as informal service issues.

An example might be where a refuse team has not picked up a customer's bin, but once the team is made aware of this the bin is picked up on the same day.

However, when a customer is unhappy about the way that a service issue or request was handled, this should be dealt with under the EDDC Complaints Procedure.

### **Complaints about policies**

Some complaints are expressions of dissatisfaction with government or local policies, as opposed to our failure to meet service standards.

We will do our best to explain the policy and the reasons for it. However, if the customer remains dissatisfied with the policy they may be directed to their MP and /or their local councillor for further discussions depending on whether this is national or local policy.

### **Complaints about staff**

We will ensure that staff members who are the subject of a complaint, or who may have a clear conflict of interest, will not handle or respond to the complaint.

### **Appeals:**

An appeal is where a request is submitted to change a decision that has been made.

For some services there are alternative statutory appeal or tribunal processes in place which must be used rather than the complaints procedure. These services include:

- Appeals against the refusal of planning permission or planning enforcement.
- Appeals against statutory notices.
- Parking appeals.
- Housing benefit appeals.
- Homelessness decisions.

### **Who can make a complaint?**

Anyone who uses or is affected by our services can make a complaint:

- Our residents.
- People who work in or visit the district.
- Local businesses.
- Community groups.

A complaint can also be made by:

- A representative acting on behalf of someone who is unable to make the complaint themselves because of physical or mental incapacity.
- A representative where they have been asked to act on behalf of a customer.
- A representative acting on behalf of someone who has died.

### **Complaints about Councillors**

The Council is very keen to make sure elected members uphold good standards of behaviour. If you believe that a Town, Parish or District councillor has done something they shouldn't and failed to comply with the Code of Conduct for elected councillors, please call the District Council's Monitoring Officer on 01395 517408. We will discuss your concerns and agree with you the best way forward.

### **Key facts**

For complaints made by a representative we have to comply with the following legal requirements:

- 1 We must have written authority from the customer (or from their executor or administrator of their estate) to deal with the representative acting on their behalf (Data Protection requirements).
- 2 We will only deal with a complaint made by a representative of someone because of physical or mental incapacity if we are satisfied that it is being pursued in the best interest of the customer.
- 3 We will use the term mental incapacity as defined by the Mental Capacity Act 2005.

### **Anonymous complaints**

We will deal with anonymous complaints where they involve individual or public safety, alleged corruption, waste or other impropriety and where we have sufficient information to allow an investigation to proceed.

### **Complaints received via Councillors or MPs**

Where Councillors or MPs make a complaint on behalf of a constituent, we will deal with the complaint following our normal processes and keep the Councillor or MP informed of progress.

**How can complaints be made?**

Customers can make a complaint in a way that best suits them. We encourage any customer who has a concern about a particular service to make contact with us straight away. Early complaints give us the best opportunity to resolve an issue quickly.

The best way for us to get all the information we need about your complaint is for a complainant to phone us in the first instance.

Complaints can also be made:

- online
- by email
- in writing
- in person

## **East Devon District Council Complaints Procedure**

The Council has a two stage complaints procedure.

Our formal complaints procedure process begins where the customer is not satisfied with our immediate resolution, or where they specifically make a formal complaint.

### **Stage 1**

Most complaints will start at stage 1 unless a decision is made by the Chief Executive or Monitoring officer that a complaint needs to begin at the highest level.

The complaint will be acknowledged within 5 working days using the standard letter appended (Appendix x). This letter explains the complaints procedure, timescales and which officer is dealing with the complaint.

The complaint will be investigated by an appropriate officer, usually the Strategic Lead or Service Lead, with input from other officers as required. A response will be prepared and sent to the complainant within 20 working days of acknowledgement where this is practical but where this is not possible due to the complexity of the matter to which the complaint relates or other exceptional or unforeseen circumstances, we will make this known to the complainant and provide an indicative timescale when a full response will be provided.

The stage 1 response will include information about what the complainant should do if they are not satisfied with the handling of their complaint.

### **Stage 2**

The complaint will be passed to the Complaints Officer for investigation on behalf of the Monitoring Officer. The Complaints Officer will acknowledge the complaint and outline to the complainant the Council's understanding of their on-going complaint.

The complainant will be encouraged to detail the reasons why they believe their complaint has not been resolved in order that the stage 2 investigation can be focused on the specific outstanding elements of the complaint.

The stage 2 response will be sent by the Monitoring Officer within 20 working days of acknowledgement where this is practical but where this is not possible due to the complexity of the matter to which the complaint relates or other exceptional or unforeseen circumstances, we will make this known to the complainant and provide an indicative timescale when a full response will be provided. The Monitoring Officer's response will include information about how to refer the matter to the Ombudsmen.

### **What about when we get it wrong?**

When a complaint is found to be justified the Council will:

- Apologise to the complainant(s)
- Explain what has been/will be done to put the mistake right.
- Explain how the error occurred and what has been done to prevent it happening again.

### **Redress**

In some cases an apology is all that is necessary and appropriate by way of a remedy.

We will offer redress where we believe that this will best serve the interests of the customer and customer service. For example, practical action will be considered as part or all of a remedy where a complaint is about failure to take some specific action such as carrying out repairs to a tenant's house.

Consideration will also be given to any practical action suggested by the complainant(s).

There will be circumstances where we are unable to put the customer back into the position they would have been in because of the amount of time lapsed or due to other events which may since have occurred.

In such circumstances, we may consider restorative or financial compensation. When considering any redress we will be fair, consistent and mindful of public money.

Decisions about making compensation payments as a result of a formal complaint will be made by the Monitoring Officer.

### **Local Government Ombudsman**

If a customer is not happy with the way in which we handled their complaint or with our response, they may ask the Local Government Ombudsman to look into their complaint. The Ombudsman will not normally look into a complaint if we have not had an opportunity to resolve it through our own complaints process first.

Enquiries from the Local Government Ombudsman will in most cases be co-ordinated by the Council's Complaints Officer and handled by the relevant Head of Service/Corporate Manager.

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

### **Housing Ombudsman**

Complaints about social housing (landlord/tenant issues) may be referred to the Housing Ombudsman if a complainant remains dissatisfied with the Council's response. A period of 8 weeks must pass between the Council's final response and the complainant referring the matter to the Ombudsman. During this time, the complainant may request consideration of their complaint by our designated Tenant Panel, MP or Local Councillor.

### **Confidentiality**

All responses to complaints at all stages will be sent in writing to the customer's address unless specifically requested otherwise. We will maintain the confidentiality of all personal customer information, and not disclose it outside of the Council without the prior permission of the customer, unless legally obliged to do so.

### **Reporting and learning from complaints**

We are committed to learning from complaints and using complaints information to drive efficiencies and service improvements.

We will keep records on each complaint received including:

- Type of complaint.

- Complaint outcome.
- Timescales agreed.
- Whether timescales were met.
- Equality information about complainants.

We will report to SMT and Cabinet when a complaint identifies learning points for the future. We will also report annually on the numbers and types of complaints received, together with information on the complaint outcomes.

## **Equality**

We will ensure our complaints process is easily accessible to all customers.

We are committed to equality and diversity in employment practice and service delivery. Our aim is to ensure that all our customers are confident of receiving fair treatment and equality of opportunity irrespective of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, sexual orientation, race, sex and religion or belief.

It is our aim to monitor complaints wherever possible, across all 9 protected characteristics to enable us to get a clear picture of where there may be unintentional barriers to services. We are committed to learning from and improving services as a result of this monitoring activity.

To help us gather this information we will write to our customers, once their complaint has been resolved and ask for information relating to the 9 characteristics. This information will be stored independently of the customer's personal details and complaint and will only be used to identify unintentional barriers to service.

## **Complaints not covered by East Devon District Council Complaints Procedure**

Certain types of issues and complaints fall outside of the East Devon District Council Complaints Procedure because:

- There are other processes more suitable for dealing with them such as statutory appeal or tribunal process.
- They are outside of our control.
- They are separate legal or regulatory requirements covering these services.

Examples are:

- A complaint that has been previously investigated and responded to.
- A complaint that is being or has been, investigated by the Local Government Ombudsman.
- Matters of law or central government policy.
- Harassment by neighbours
- Complaints from staff about HR issues such as recruitment, dismissals, pay, pensions and discipline. These are dealt with separately under our Human Resources policies.
- Freedom of information requests, or complaints about the decision, the information provided or how a request was handled. These are dealt with under the Freedom of Information Policy.
- Commercial or contractual matters, for example contracts for the supply of goods and services to the Council. However, complaints about the negotiation of Council leases, or the disposal of Council land should be dealt with through this policy and procedure, as such complaints are within the jurisdiction of the Local Government Ombudsman.
- Complaints that have already been decided by a court or independent tribunal are not covered by our procedure, but complaints about the implementation of a court or tribunal's decision may be investigated, for example the recovery of Council Tax after a Liability Order has been obtained.
- Services for which there are alternative statutory appeal or tribunal processes, including:
  - Appeals against the refusal of planning permission or planning enforcement.
  - Parking appeals.
  - Complaints about registered housing providers.
  - Housing benefit appeals.
  - Homelessness decisions.
  - Acceptance on housing waiting list.
  - Council Tax and Housing benefit calculations.
  - A complaint that has been previously investigated and responded to.
  - Complaints about councillors.

Where the subject of a complaint is covered by specific regulatory procedures, it must be dealt with through those procedures. However, when a customer is unhappy about the way that an appeal or tribunal matter was handled, for example a delay in preparing the Council's submission to a tribunal or appeals panel, this should be dealt with under this complaints procedure. If the complaint is about the attitude of staff when handling an appeal or tribunal matter this falls under our East Devon District Council Complaints Procedure.

## **How to contact us**

Further information on all our services is available on line at [www.eastdevon.gov.uk](http://www.eastdevon.gov.uk)

To give feedback online visit [feedback@eastdevon.gov.uk](mailto:feedback@eastdevon.gov.uk)

If you would like help by phone please call 01395 517417

To contact us by email, send your query to [complaints@eastdevon.gov.uk](mailto:complaints@eastdevon.gov.uk)

Letters should be sent to:  
The Complaints Officer

East Devon District Council  
Blackdown House,  
Border Road,  
Heathpark Industrial Estate,  
Honiton,  
EX14 1EJ  
DX 48808 HONITON

## **Contacting the Local Government Ombudsman**

[www.lgo.org.uk](http://www.lgo.org.uk)

Tel: 0300 90610614

## **Contacting the Housing Ombudsman**

[www.housing-ombudsman.org.uk](http://www.housing-ombudsman.org.uk)

Tel: 0300 111 3000

## **Procedure Review Date**

This procedure will be reviewed in April 2017 or in accordance with any new legislation or guidance.

