

Tonbridge & Malling Borough Council

Corporate Complaints

**A guide
for managers and staff**



www.tmbc.gov.uk

Introduction

Scope of this guide

All Services - all staff that receive and/or respond to complaints from the public need to be familiar with this procedure and the public booklet.

Other TMBC documents to read

The public booklet entitled "Solving your problems - how to make a complaint about the Council".

Definition of a complaint

A complaint is an expression of dissatisfaction to the Council, however made, about the standard of service, actions or lack of action by the Council, its staff, contractors or agents. This includes expressions of dissatisfaction about our policies.

Complaints not covered by this guide

Some complaints are outside the scope of our corporate complaints procedure and need to be addressed in another way, including those:

- Where there is a separate review process, which may be statutory, that includes a right of appeal to an independent body. Examples include someone disagreeing with the Council's decision on his/her planning application or with the legality of the Council's decision to issue him/her with a parking ticket (although disagreement with the manner in which the ticket was issued does fall within our complaints system).
- About the conduct of councillors. These should be referred to the **Chief Executive** and the **Monitoring Officer** (The Director of Central Services & Deputy Chief Executive).
- Involving allegations of criminal behaviour or other unlawful actions. These should be referred to the **Chief Executive** and the **Monitoring Officer** who may wish to consult the police before taking action on the allegation.
- Involving financial impropriety. These should be referred as appropriate to the: **Chief Executive**, **Monitoring Officer**, **Director of Finance & Transformation** and **Chief Internal Auditor**.

Any other exclusions identified by Services should be reported to and agreed formally with the **Director of Central Services & Deputy Chief Executive**.

Record keeping

At all stages, the **Corporate Complaints System** will be used to record and, if appropriate, to escalate complaints, giving details of who dealt with the complaint, what action was taken and the complainant's response.

Complaint Form

Complainants should be encouraged to self-serve using the web-site form: <http://www.tmbc.gov.uk/do-it-online/report-forms/complaints> .

Where it is necessary for staff to record complaints, the internal complaints form on the Intranet should be used: (http://staffnet.tmbc.gov.uk/assets/personnel/New_Forms/CouncilComplaintsForm.dot)

Contents of this guide

The following detailed procedures should be read in conjunction with our public complaints booklet entitled "Solving your problems - how to make a complaint about the Council".

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Where the complaint is a very complex matter or the complainant is not satisfied by our response at Stage 1 and the complainant writes to the Service Director.	Stage 2	8-9
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Where the complaint is a very serious matter or the complainant is not satisfied by our Stage 2 response and the complainant writes to the Chief Executive.	Stage 3	10-11
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Our general approach

1. *Our first responsibility is to try to satisfy the complainant by processing the complaint fully, fairly, quickly and courteously.*
2. *Where a complaint is justified, our policy is to restore, as far as possible, people to the position they would have been in if things had not gone wrong. This will normally mean:*
 - *Apologising, and*
 - *Providing the desired service or taking corrective action.*

Our staff who respond to complaints as part of their normal work usually have sufficient authority to cover the above actions. If in doubt they check immediately with their line manager.
3. *We are sensitive to any special needs and circumstances of the complainant (e.g. poor sight or hearing, inability to read or write, difficulty in understanding the discussion etc.). In order that no one is excluded from our complaints system because of difficulties they have in representing themselves we either provide appropriate help ourselves or, exceptionally, put them in touch with a suitable agency (e.g. Citizens' Advice Bureau).*
4. *We deal with all complaints impartially, objectively and professionally. We do not under any circumstances penalise the complainant or their family in any way because they have made a complaint.*
5. *Where a complaint concerns more than one Service or Section, we nominate a lead Service and the **Complaints Officer** for the lead Service co-ordinates the Council's response.*
6. *Where the complaint is made via a Councillor, the **Director** of the Service is notified immediately.*
7. *It is not appropriate to pay financial compensation for the vast majority of complaints. The Council's policy on financial compensation is included at Appendix 1 along with guidance from the Local Government & Social Care Ombudsman.*
8. *Some complaints that are directed at TMBC are the responsibility of another organisation. In these circumstances we provide as much information as possible to the complainant to help him/her contact the right organisation. How well we help people in this situation reflects on TMBC so our standards in dealing with complaints still apply.*

9. Most complaints about most services fall within the scope of our corporate complaints system. Exclusions are detailed on page 2. Where a complaint is outside the scope of the corporate complaints system we advise the complainant how to proceed. Our staff check immediately with line management if in doubt.
10. Complaints by, or on behalf of, children and young people can be investigated directly by the Local Government & Social Care Ombudsman (LGSCO), without first going through the Council's own complaints procedure. Leaflets about what the Ombudsman does are available from the LGSCO office.

Service Complaints Officers

Name/email	Service
Denise.Tate@tmbc.gov.uk	Central Services (including: crime and disorder reduction, media and communications, customer services, land charges/searches, and licensing).
Denise.Tate@tmbc.gov.uk	Executive Services (including: electoral registration and economic development).
Matthew.Cattermole@tmbc.gov.uk	Environmental Health & Housing, Transportation and Planning Services (including: housing/homelessness, development and building control, and public and on-street car parking).
Sally.Evans@tmbc.gov.uk	Financial & Transformation Services (including: business rates, council tax, housing/council tax benefits and benefit fraud, and IT).
Joanne.Sonnex@tmbc.gov.uk	Street Scene & Leisure Services (including leisure centres, parks, open spaces, arts and tourism, street cleaning, waste collection and recycling).

Stage 1 complaints

11. **Stage 1** is an opportunity for an informal and reasonably quick resolution of a complaint. At this stage it is normally clear what constitutes a reasonable and fair outcome. If not, we invite the complainant to say what they think would be reasonable and fair.
12. There is no universal agreement on what constitutes a complaint. For example, one person's service request is another person's complaint. It is not our job to 'educate' the public about our views on what constitutes a complaint, as this might inflame an already difficult situation. Our approach is to adopt the language used by the complainant. If someone says, "I am complaining about..." then it is a complaint. If someone says, "I am reporting some dumped rubbish that needs to be cleared" then it is a service request.

All complaints will be monitored centrally but the responsibility for responding to and, if necessary, escalating complaints rests with Services.

Where a complaint involves discrimination of any sort, the details will be recorded in full on the Complaints Form.

13. Complaints tend to be made:
 - By telephone where this is the most convenient/easy means of contact or where the complainant is looking for a quick response.
 - In person where this is the most convenient/easy means of contact or where the complainant is looking for dialogue that may involve joint review of papers, plans or other material.

In these circumstances, so far as possible our response is to put the matter right quickly without unnecessary formality. Otherwise, for complaints made by telephone or in person, if our response does not necessarily involve going into writing, a written response is not required. If we cannot sort out the problem immediately we explain to the complainant what we are going to do and when we will do it by. We then keep to our commitment.

14. Complaints tend to be made in writing where the complainant wants a record of the communication and/or where putting the matter in writing is seen as having the best chance of getting the matter resolved satisfactorily. Where complaints are received in writing our response is always to include a reply in writing - even where our response would otherwise not necessarily involve going into writing

More specifically:

- Unless an immediate (i.e. same or next day) response is possible, we send a written acknowledgement on the same or the next working day that we receive the complaint.
- Where a full response is made within 10 working days of receiving the complaint, it will be confirmed in writing within 10 working days of receiving the complaint.
- Where a full response is not made within 10 working days of receiving the complaint we provide a written progress report within 10 working days of receiving the complaint.

The progress report must:

- Acknowledge and provide reasons for the delay.
- Say what is going to happen next.
- Provide a new target time for fully responding to the complaint.

If we cannot respond within the new target time this step is repeated.

- We monitor and ensure the promised action is completed on time.

15. Where a complainant indicates or makes it clear that he/she will not be satisfied with our response at this stage, we:

- Tell the complainant what to do next.
- Offer to provide, or enclose if the response is in writing, a copy of our public booklet entitled "Solving your problems - how to make a complaint about the Council".

Stage 2 complaints

16. **Stage 2** complaints are where the complaint is a very complex matter or the complainant is not satisfied by our response at **Stage 1** and the complainant writes to the **Director of the Service** (or the **Chief Executive** where the complaint concerns Executive Services). Where straightforward complaints are made in writing or verbally to the **Director** or the **Chief Executive**, because complainants have not followed our advice to take these complaints to front-line staff in the first instance, they are treated as **Stage 1** complaints.
17. At **Stage 2**, all complaints are recorded on the Complaints Form to help ensure a standard council-wide response within the set time limits.
18. On receipt of a **Stage 2** complaint, the Service's **Complaints Officer** (see page 5) escalates the Stage 1 complaint within the Complaints Recording System. The target date for written reply/progress report is 10 working days from the date the Stage 2 complaint was received (which is day 1).
19. Where complaints are received in writing our response always includes a reply in writing - even where our response would otherwise not necessarily involve going into writing.

More specifically:

- Unless an immediate (i.e. same or next day) response is possible, we send a written acknowledgement on the same or the next working day that we receive the complaint.
- Where it is not clear, we invite the complainant to say what they think would be a reasonable and fair outcome.
- Where a full response is made within 10 working days of receiving the complaint, it will be confirmed in writing within 10 working days of receiving the complaint.
- Where a full response is not made within 10 working days of receiving the complaint we provide a written progress report within 10 working days of receiving the complaint.

The progress report must:

- Acknowledge and provide reasons for the delay.
- Say what is going to happen next.
- Provide a new target time for fully responding to the complaint.

If we cannot respond within the new target time this step is repeated.

- We monitor and ensure that the promised action is actually taken on time.

20. Throughout this process the **Service's Complaints Officer** updates the case within the Complaints Recording System.

21. The **Director** advises the complainant that he/she may take his/her complaint to the **Chief Executive** if he/she remains dissatisfied and, where there is no evidence that the complainant already has a copy, sends him/her our public booklet entitled "Solving your problems - how to make a complaint about the Council".

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Stage 3 complaints

22. **Stage 3** complaints are where the complaint is a very serious matter or the complainant is not satisfied by our response at **Stage 2** and the complainant writes to the **Chief Executive**. Where straightforward complaints are made in writing or verbally to the **Chief Executive**, because complainants have not followed our advice to take these complaints to front-line staff in the first instance, they are treated as **Stage 1** complaints. Similarly, very complex or follow-on complaints that should have been sent to the **Director** are treated as **Stage 2** complaints.
23. The way that complaints are handled at **Stage 3** can vary significantly. In some cases it may be possible to conclude quickly that there is nothing to add beyond what was said in the **Stage 2** decision. In other cases a more extensive investigation will be needed before any conclusion can be reached.
24. On receipt of a **Stage 3** complaint, Executive Service's **Complaints Officer** (see page 5) escalates the Stage 2 complaint within the Complaints Recording System. The target date for written reply/progress report is 10 working days from the date the Stage 3 complaint was received (which is day 1).
25. Where complaints are received in writing our response always includes a reply in writing - even where our response would otherwise not necessarily involve going into writing.
26. More specifically:
- Unless an immediate (i.e. same or next day) response is possible, we send a written acknowledgement on the same or the next working day that we receive the complaint.
 - Where it is not clear, we invite the complainant to say what they think would be a reasonable and fair outcome.
 - Where a full response is made within 10 working days of receiving the complaint, it will be confirmed in writing within 10 working days of receiving the complaint.

- Where a full response is not made within 10 working days of receiving the complaint we provide a written progress report within 10 working days of receiving the complaint.

The progress report must:

- Acknowledge and provide reasons for the delay.
- Say what is going to happen next.
- Provide a new target time for fully responding to the complaint.

If we cannot respond within the new target time this step is repeated.

- We monitor and ensure that the promised action is actually taken on time.

27. Throughout this process the **Service's Complaints Officer** updates the case within the Complaints Recording System.

28. The **Chief Executive** advises the complainant that he/she may take his/her complaint to the **Local Government & Social Care Ombudsman** if he/she remains dissatisfied.

Learning from complaints

29. As noted previously, one person's complaint is another person's service request.

Learning from customer contacts, in all their forms, is more important and valuable than trying to differentiate between complaints and other types of customer contact.

Services should continually seek to identify measures to reduce the likelihood of recurring complaints and avoidable service requests.

Each Service should analyse complaints received to identify patterns and lessons for service improvement.

. Our contractors

30. Complaints may relate to the actions of an outside person or firm working on behalf of the Council, rather than the actions of our own staff. Each contract specification should include the following clause as per the Council's core contract conditions:

The Contractor shall notify the Council of full details of all complaints received, whether resolved or not, within 24 hours of receipt of the complaint by the Contractor. The Supervising Officer may investigate all such complaints and for complaints of a serious nature a joint investigation will be conducted with the Council and the Contractor. The Contractor shall fully co-operate with all such investigations. After conducting such investigations the Supervising Officer may, where he considers appropriate, issue Default Notices or make percentage reductions or invoke the default mechanism clauses or exercise any other remedies available under the Contract.

Approach to diversity

31. Our policy is to be sensitive to the needs and circumstances of every complainant.

32. Complaints against the Council that concern alleged discrimination are categorised separately. Complaints regarding discrimination are rare and, when analysed, often involve a perception of unfair treatment by the Council rather than discrimination.

Appendix 1 - Financial compensation

1. Extract from the Council's complaints policy on remedies (as reported to the Personnel & Performance Review Sub-Committee on 4 November 1997:

"Exceptionally, in some circumstances where the complainant has sustained loss or suffering, the Council may consider the question of financial compensation. In these cases, in the first instance, the matter is referred to the Council's **Insurance Officer** to establish whether or not it is covered by the Council's insurers."

Where compensation payments are covered by the Council's insurers:

- The insurance company deals directly with the claimant and the **Director of Finance & Transformation** ensures that Management Team is aware of significant cases as necessary.
- Execution of such payments is monitored by the **Director of Finance & Transformation** .

Where compensation payments are not covered by our insurers:

- Execution of such payments is monitored by the **Director of Finance & Transformation**.
 - Financial compensation payments up to the amount stipulated in the Council's constitution (the current equivalent of £350 adjusted for RPI; the amount stated in Part 3 – Page 39, paragraph CEX202 of the Feb 2015 edition) can be authorised only by the **Chief Executive**, the **Director of Finance & Transformation** or the **Director of Central Services & Deputy Chief Executive**.
 - Financial compensation payments above the amount stated in the Council's constitution adjusted for RPI must be reported to and authorised by General Purposes Committee.
- Having obtained the appropriate authorisation, the relevant **Chief Officer** makes an appropriate offer to the complainant, "*making it explicit in writing that the offer is being made in accordance with the Council's complaints procedure without admission of legal liability*". Once agreed, the **Chief Officer**, cross referencing to the authorisation obtained, passes the case to the **Director of Finance & Transformation** to effect payment.

If there is any doubt on the legality of any financial compensation payment, it will be referred by Management Team to the **Monitoring Officer** (the Director of Central Services & Deputy Chief Executive-) for clearance prior to implementation.

To ensure consistency financial compensation payments will be monitored by Management Team.

2. General guidance from the Local Government & Social Care Ombudsman's, "Running a Complaints System - Guidance on good practice (1)", June 2002:

Whether financial compensation should be paid, and how much, will depend on the circumstances. Where compensation is considered appropriate, the following guidelines should be taken into account:

- Where specific financial losses have been incurred, reimbursement is likely to be appropriate (together with consideration of whether interest should be paid).
- Where devaluation of property is alleged, an independent valuation (for example by the Valuation Office Agency) could be considered with a view to compensation for any difference in value arising from the action complained of.
- Where the complainant has had to spend an unreasonable and significant amount of time in pursuing the matter, a payment in recognition of 'time and trouble' may be appropriate.
- If exceptional worry, distress or inconvenience has been caused by the events, consideration could be given to a payment in recognition of those factors.

3. Guidance from the Local Government & Social Care Ombudsman's, "Remedies - Guidance on good practice (6)", March 2003:

Further, more detailed, guidance on financial compensation regarding complaints is provided in Guidance from the Local Government & Social Care Ombudsman's, "Remedies - Guidance on good practice (6)", March 2003.

