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Complaints Policy

1 Introduction

- 1.1 Complaints are an important part of how the council improves its overall service delivery across all its service areas. This policy sets out the council's approach to dealing with complaints.
- 1.2 The aim of the Council's complaints policy is to:
- Define what a complaint is and how a complaint differs from a service request
 - Make it easy for customers who are dissatisfied to complain
 - Explain the process for making a complaint
 - Resolve service issues in a timely fashion and at initial point of contact wherever reasonably possible
 - Improve our services
- 1.3 Effective complaint handling enables individuals to be heard and understood. The starting point for this is a shared understanding of what constitutes a service request and what constitutes a complaint. In most cases the Council will be able to put things right through our normal service delivery processes. The following sections explain what we will treat as a complaint and what we will treat as a service request.
- 1.4 This policy will be published on the Council's website at www.tmbc.gov.uk and available in hard copy at the Council offices at Tonbridge Castle and at the Gibson Building, Gibson Drive, Kings Hill, West Malling, Kent ME19 4LZ.
- 1.5 The Council has had regard to the Complaints Handling Code (February 2024) published by the Local Government and Social Care Ombudsman in the preparation of this policy. A copy of the Complaints Handling Code may be viewed at [Complaint Handling Code - Local Government and Social Care Ombudsman](#).

2 What is a complaint?

- 2.1 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, or those acting on our behalf e.g. contractors or agents. This includes expressions of dissatisfaction about our policies.
- 2.2 A customer should not have to use the word 'complaint' for it to be treated as such. A complaint that is submitted via a third party or representative should still be handled in line with this complaints policy.
- 2.3 A complaint may be raised when the customer expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. The Council should not stop its efforts to address the service request if the customer complains.

3 What will we not treat as a complaint?

- 3.1 A service request is a request that the Council provides or improves a service, fixes a problem or reconsiders a decision. This provides the Council with an opportunity to resolve matters to an individual's satisfaction before they become a complaint. Service requests are not complaints but may contain expressions of dissatisfaction.
- 3.2 We expect all Council staff to work with customers to resolve any service requests in the first instance. This normally enables a quicker resolution than the Council's formal complaints process. A request for service may, however, result in a complaint if we are unable to resolve the issue. The Council may, with the agreement of the customer, resolve any formal complaint as a service request.
- 3.3. In general, the following issues will be treated as part of the council's normal business rather than through the complaints process. Such matters include, but are not restricted to:

Examples of this include:

- general enquiries
- comments
- initial requests for service
- initial reporting of faults
- applications to the housing register/homelessness

Many of the reports that the council receive just require us to do, remove, fix or clean something such as:

- A missed bin collection
- Graffiti removal
- Noise nuisance
- Bonfires / Smells
- Dog fouling / bins
- Anti-social behaviour
- Issues with litter bins
- Fly-posting
- Fly-tipping
- Abandoned cars
- Stray dogs
- Street cleansing
- Empty homes
- Litter.
- Grass cutting.

- 3.4 We will treat these as a request for us to do something (a service request) rather than as a complaint. These reports are critical in helping us to keep our borough clean and well maintained. These in the first instances can be reported on our website [\[link\]](#)

4 Time limit for making a complaint

- 4.1 We will not normally consider a complaint that is made more than twelve months after the issue occurring or the individual first became aware of the issue they would like to complain about. This is in line with good practice as operated by the Local Government and Social

Care Ombudsman. In its discretion the Council may accept complaints outside of this time limit where there are exceptional reasons for the delay.

- 4.2 If the Council decides not to accept a complaint, an explanation will be provided to the individual setting out the reasons why the matter is not suitable for the complaints process and the right to take that decision to the Ombudsman

5 Exclusions

- 5.1 Some complaints may fall outside the scope of our procedure. These are listed below.

Alternative right of appeal/ alternative legal remedy

- 5.2 The Council will not respond to complaints where there is an alternative right of appeal. Such matters include, but are not restricted to:

- Appeals against parking fines
- Appeals against planning application decisions
- Appeals against housing benefit decisions
- Appeals against housing benefit/council tax reduction/discretionary housing payment decisions
- Appeals against council tax and business rate decisions
- Reviews of homelessness and housing register decisions
- Fixed Penalty Notices
- Matters that are the subject of ongoing legal proceedings

Complaints about Councillors

- 5.3 Complaints about Councillors are handled in a different way. Customers wishing to complain about the conduct of a Councillor should contact the Council's Monitoring Officer (the Director of Central Services and Deputy Chief Executive). More information is available here - [Code of conduct for councillors – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk)

6 How to complain

6.1 Customers can complain in these ways:

- On-line at [Make a complaint – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tonbridgeandmallingsborough.gov.uk/make-a-complaint)
- By email to complaints@tmbc.gov.uk
- In person at Tonbridge Castle or the Gibson Building (address below) where we will guide you through our complaints process
- By telephone on 01732 844522, or
- By post at Tonbridge & Malling Borough Council, Gibson Building, Gibson Drive, West Malling, Kent ME19 4LZ

7 Equality, diversity and inclusion

- 7.1 We want customers to be able to communicate with us and access our services easily. It is important that customers let us know if they prefer to communicate with us and access our information in a particular way. For example, if customers need help making a complaint and English is not their first, or preferred, language, or customers have a disability that makes communicating with us more difficult, please tell us and we will arrange for someone to help. If customers require information in an alternative format please let us know and, where feasible, we will provide it.
- 7.2 If you wish to have a representative act on your behalf in dealing with your complaint (including representing or accompanying you at any meeting with the Council), please let us know.

8 Access to information and data protection

- 8.1 Freedom of Information and Environmental Information complaints will be processed by the Freedom of Information team through an internal review process. If individuals remain dissatisfied, they have the right to escalate their concerns to the Information Commissioner's Office at www.ico.org.uk.
- 8.2 All correspondence received by the council is subject to the Freedom of Information and Environmental Information laws and, in certain circumstances, may need to be made public. We will, however, respect legitimate expectations for confidentiality and we will keep to the relevant privacy laws.
- 8.3 We will use the personal information customers give us only to deal with feedback and, where necessary, to put things right. In the case of complaints, we will give details to the people who need them in order to investigate and resolve the matter.
- 8.4 We will not give customers' personal details to any third party unless they have a need to know (for example, if a complaint relates to the actions of one of our contractors, or if the Local Government & Social Care Ombudsman is investigating).
- 8.5 When dealing with complaints, we also protect the identity of other people who may be involved. So there may be times when we will not be able to give customers personal information about other people (for example, witnesses to incidents or other people complaining).
- 8.6 For complaints and concerns relating to data protection, please refer to Data Protection Policy [\[link\]](#).

- 8.7 Customers who are unhappy with the way we have dealt with their requests for information or disagree with one of our decisions can request a review. This will be dealt with outside of this Complaints Procedure. The Borough Council will respond to review requests within 40 working days. Following this, any customer remaining dissatisfied may contact the Information Commissioner's Office (www.ico.org.uk).

9 Publication and review

- 9.1 This policy is published on the council's website and can be provided in paper form if required. This policy will be reviewed every two years, or earlier at the request of either Councillors or management, or in light of any changes to legislation or national guidance.
- 9.2 The annual complaints performance and service improvement report will be reported to the Overview and Scrutiny Committee and published on the complaints section of the website alongside the response to the report.

10 Unreasonable behaviour and persistent complainants

- 10.1 Tonbridge & Malling Borough Council is committed to dealing with all complaints fairly and impartially. We acknowledge that some customer complaints can be difficult to resolve and can cause anxiety and distress to customers. Whilst we aim to resolve matters there are times where a small number of customers may pursue their complaints in a way which hinders consideration of their complaints, and/or has a significant impact on the Council's resources.
- 10.2 In such cases we will follow our Policy on Unreasonably Persistent Complaints and Unreasonable Customer Behaviour, which may result in a customer's contact with the Council being restricted. This policy may be viewed here [Policy on managing unreasonable behaviour – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](http://tmbc.gov.uk)

The Complaints Procedure

Tonbridge & Malling Borough Council has a two stage Complaints Procedure. At any time the Council may, with the agreement of the customer, resolve any formal complaint as a service request.

The aim being to:

- Deal with complaints in a timely way
- Keep the complainant apprised of the progress of their complaint
- If we have got something wrong we will say sorry and explain the context

- Use complaints to improve our services
- Take care with personal information contained in a complaint

Stage 1

We will try to resolve service issues on first contact as service requests. If we can't, or a customer asks us to, or we need to look into a complaint further, we will deal with them at Stage 1 of our Complaints Procedure. Once submitted, we will acknowledge receipt of any complaint within five working days of receipt.

The responsible Head of Service will investigate the complaint and will ordinarily respond within 10 working days of receipt of the acknowledgement.

Where an extension to the above timescale is needed e.g., when a complaint is complex the Council will inform you of the expected timescale for response. Any extension should normally be no more than 10 working days, and the reason(s) will be clearly explained to you.

Any customer who is unhappy with the response at Stage 1 may request a review of their complaint by the Chief Executive at Stage 2.

Stage 2

Customers remaining dissatisfied with the Council's response at Stage 1 may ask that their complaint is reconsidered at Stage 2.

The Council will only consider new information at Stage 2 and will not respond to the same things already addressed at Stage 1 of the complaint.

Customers must include all information materially significant to their Stage 2 complaints within their Stage 2 referrals. Failure may mean that we cannot take that information into account in our response.

We will acknowledge Stage 2 requests within 5 working days of receipt.

Your complaint and the Stage 1 response will be reviewed by one of the Council's Management Team.

One of the Council's Management Team will normally respond to the Stage 2 complaint within 20 working days of the acknowledgement.

Where an extension to the above timescale is needed e.g., when a complaint is complex the Council will inform you of the expected timescale for response. Any extension should normally be no more than 20 working days, and the reason(s) will be clearly explained to you. You will also be provided with details of the Local Government and Social Care Ombudsman.

The Stage 2 response will contain the following information:

- the Council's understanding of the complaint
- the decision on the complaint

- the reasons for any decisions made
- the details of any remedy offered to put things right
- details of any outstanding actions; and
- details of how to escalate the matter to the Ombudsman if the individual remains dissatisfied.

Any customer remaining dissatisfied with the response at Stage 2 of the Council's Complaints Policy may take their complaint to the Local Government & Social Care Ombudsman (LGSCO).

If at either stage we need more time to respond to your complaint, we will explain the reasons for the delay and notify you as to when to expect a full response.

Putting things right

Where something has gone wrong the Council will acknowledge this and set out the actions it has already taken, or intends to take, to put things right. These can include:

- Apologising;
- Acknowledging where things have gone wrong;
- Providing an explanation, assistance or reasons;
- Taking action if there has been delay;
- Reconsidering or changing a decision;
- Amending a record or adding a correction or addendum;
- Providing a financial remedy;
- Changing policies, procedures or practices.
- Providing additional training for staff

Local Government & Social Care Ombudsman (LGSCO)

The LGSCO is an independent service set up by the Government to investigate complaints about Councils. The Ombudsman will not investigate most complaints until they have been through the Council's Complaints Procedure. If you remain dissatisfied with the outcome of your complaint at stage 2, you can complain to the Ombudsman at <http://www.lgo.org.uk>, telephone 0300 061 0614.