



CORPORATE COMPLAINTS

POLICY AND PROCEDURE

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1. INTRODUCTION

1.1 The Council is committed through its Corporate Plan, to the highest possible standards of openness, probity and accountability both as an employer and as a provider of services. In line with this commitment, the Council encourages its customers to voice their concerns as an opportunity to put things right for the customer and to improve services.

1.2 This Corporate Complaints Procedure is designed and intended to give all staff, Councillors, partners and the Council's contractors guidance on how to handle service related complaints effectively. These guidelines may be supplemented by individual Directorate/Departmental advice.

1.3 The purpose of this Corporate Complaints Procedure is to:

- form a basis of accountability to the public for the performance of services;
- enable the Council to assess the effectiveness of corrective actions;
- clarify how the public make a formal complaint to the Council;
- define the standards the public can expect when making a complaint;
- recognise the importance of complaints in providing feedback about Council services and performance;
- analyse and identify patterns of complaints;
- set out how the Council will monitor complaints, and use that information to improve services and identify training needs;
- resolve as many complaints as possible at the initial point of a Stage One complaint;
- acknowledge any faults and offer an apology;
- give a clear and relevant explanation to the complainant where this is requested;
- remedy as quickly as possible any acknowledged deficiencies in the Council's services/systems, procedures, policies etc;
- take effective action to avoid similar complaints in the future;
- share best practice in dealing with complaints across the Council;
- ensure that the Council conforms with the Local Government/Housing Ombudsman's guidance on running a complaints system.

1.4 The Head of Legal Services has been designated the Council's Corporate Complaints Officer, with overall responsibility for this

Corporate Complaints Procedure and its administration and maintenance.

1.5 The Corporate Complaints Officer will remain independent of any decisions but may give guidance and advice on procedure.

1.6 Where any question arises on the applicability of this Corporate Complaints Procedure, advice should be sought from:

The Corporate Complaints Officer

Tel: 01322 343434

Email: corporate.complaints@dartford.gov.uk

1.7 It is essential for the operation of this Corporate Complaints Procedure, that Council staff adopt a positive approach to complaints handling and it is also important that staff should put the complainant first and respond positively to their complaint and treat each complaint seriously. Staff should always attempt to treat complainants in the way that they personally would wish to be treated, should they have a complaint against a third party.

1.8 An important part of dealing with complaints is ensuring that lessons are learnt from the things that go wrong, and steps taken to put them right. Each service area has its own managerial arrangements for identifying and implementing changes arising from complaints. Formal mechanisms should also be in place in service areas for senior staff to review the outcome of Stage Two and Ombudsman complaints.

1.9 **Development of a corporate complaints recording system**

Complaints are managed through Infreemation. The system provides for logging, tracking, monitoring and reporting on complaints. Having instant access to complaints information enables the Corporate Complaints Officer to quickly identify issues of concern and pass them immediately to the relevant service area for resolution. Infreemation has been developed to include monitoring of equalities and recording of MP's, Councillors' and Ombudsman enquiries, to prevent duplication and overlap.

Infreemation includes improved arrangements for quality assurance – both for assessing the quality of complaint responses, and measuring customers' satisfaction with the complaints process.

2. AIMS OF THIS CORPORATE COMPLAINTS PROCEDURE

2.1 This Corporate Complaints Procedure aims to:

- accept that things can go wrong but that the Council can put things right and learn from its mistakes;
- provide service users with an effective way to complain about Council services;
- if possible, resolve complaints straight away;
- deal with complaints fairly and consistently;
- define the standards the public can expect when they make a complaint;
- recognise the importance of complaints in providing feedback about Council services and performance;
- set out how the Council will monitor complaints, and use that information to improve services and identify training needs;
- ensure that the public are entitled to have the same access to this Corporate Complaints Procedure, regardless of whether the service is being provided by the Council or by a contractor.

2.2 This Corporate Complaints Procedure must:

- be open, easily accessible and well publicised;
- be simple to use and understand;
- be confidential;
- allow quick resolution of complaints, with set time limits for action to be taken;
- keep the complainant informed about their complaint;
- deal with all issues raised by complainants and give an effective reply and appropriate remedy;
- be fair for staff and recognise the right of staff to be kept informed about complaints against them and their right to be represented or accompanied at any interview concerning a complaint;
- use the information from complaints to improve working practices and/or policy decisions.

2.3 What can the complainant expect?

As an Officer, partner or contractor dealing with a complaint on behalf of the Council, you must:

- ensure that no complaint is investigated or responded to by a member of staff about whom the complaint has been made, or who has a conflict of interest in the matter;
- consider whether it would be appropriate to offer a face to face meeting, being flexible about the time and venue - check how much time the complainant has available;

- check whether the complainant wishes to enlist the help of an advocate or supporter;
- ensure that the complainant understands what is being said; - check if the complainant has any particular needs e.g. translation into Braille or a language other than English and if necessary, provide an interpreter;
- listen to the complainant's concerns and repeat your understanding of what you have heard - offer to write this down, preferably together;
- consider the vulnerability/dependency of the complainant. If they are vulnerable or dependent, it is very important to ensure that they have appropriate support;
- keep in mind the cultural and religious background of the complainant;
- act in a non-defensive manner;
- be helpful, polite and courteous;
- be honest;
- be sensitive;
- tell the complainant what they can reasonably expect you to do, what you can or can't do, and the time limits;
- give the complainant a contact name and phone number/email address;
- make sure the complainant does not have to repeat their complaint to various staff;
- if you think the complaint may not be justified, ask yourself why the complainant thought they had cause for complaint;
- carry out promptly, any required actions or promises you have made;
- ensure that the complainant's desired outcome is clearly defined;
- confirm discussions and actions in writing;
- any request for the identity of the complainant to remain confidential will be respected as far as possible;
- if you can't deal with the problem, tell the complainant how they can pursue the matter further.

2.4 **Conflicts of interest**

Officers, partners, Councillors and contractors must distance themselves from the investigation of or involvement in any complaint in which they are directly or indirectly implicated.

2.5 **Who may use the complaints procedure?**

- Any person or organisation receiving or seeking to receive a service from the Council;
- Someone acting on behalf of a person or organisation receiving or seeking to receive a service from the Council e.g. Councilor, MP, next of kin.

2.6 Special needs of the complainant

Some complainants will have special needs. It is important to be aware of this and to provide appropriate support that may assist them to make their complaint. Some of these needs are considered below:

- Visual impairment - consider if the provision of a large print leaflet or audiotape version of the complaints process would be appropriate;
- Consider if someone is required to assist the complainant write his/her complaint - always ask the complainant if they require assistance;
- Hearing impairment - consider if the use of a British Sign Language interpreter would assist the complainant;
- English as a second language - the complainant should be offered the assistance of a translator, family member or friend to help them make their complaint;
- House bound complainants - some house bound complainants may require a home visit;
- Complainants may wish to enlist the help of a friend, relative, Councillor, MP, professional person, e.g. doctor or priest, or an advocacy service.

2.7 Minimum standards for handling complaints

The following are the minimum standards:

- i) Each formal complaint, on receipt by the Council, will be logged by the Corporate Services Team on Infreemation;
- ii) Each formal complaint will be acknowledged within 5 working days of receipt by the Council;
- iii) Under Stage One, Officers will aim to provide a full response to the complainant within 10 working days of acknowledgement by the Council;
- iv) Under Stage Two, Officers will aim to provide a full response to the complainant within 20 working days of acknowledgement by the Council, of the request to invoke the Stage Two process;
- v) Response standards will be set and complainants will be told what they can expect to happen, and when;
- vi) Complainants will be kept informed of progress in dealing with their complaint, and if it cannot be resolved within the normal time scales as required, the following extensions will be applied and the complainant will be informed as to the reasons why;
 - (a) No more than 10 extra working days for a Stage One complaint
 - (b) No more than 20 extra working days for a Stage Two complaint

- vii) Complainants will be told at the end of each Stage of the complaints process, how they may pursue/escalate their complaint further;
- viii) Complete records maintenance throughout the process.

2.8 Publicity

- 2.8.1 The 'How to Complain to Dartford Borough Council' leaflet sets out (in summary form) the substance of this Corporate Complaints Procedure. A guidance note available in appropriate languages and appended to the leaflet advises the complainant to seek advice in his/her first language, if he/she requires assistance, in completing the complaint form.
- 2.8.2 This Corporate Complaints Procedure and the 'How to complain to Dartford Borough Council' leaflet will:
 - be publicised on the Council's website <https://www.dartford.gov.uk/>;
 - be available at Customer Services and at other Council service outlets to ensure maximum access;
 - be made available to all staff who are likely to receive complaints.
- 2.8.3 Information about the Local Government & Social Care Ombudsman and the Housing Ombudsman is publicised on the Council's website at <https://www.dartford.gov.uk/>. This includes information about the Housing Ombudsman's [Complaint Handling Code](#), and how the Council's housing-landlord function is required to comply with the Code. The Local Government & Social Care Ombudsman has an aligned [Complaint Handling Code](#), which constitutes advice and guidance to councils (for non-housing landlord related complaints), rather than instructions.

2.9 Directorate/Departmental Complaints Officer (DCOs)

- 2.9.1 Directors will be responsible for the effective operation of this Corporate Complaints Procedure within their areas of responsibility. Each Director will nominate a Senior Officer as a DCO, responsible for ensuring that complaints are dealt with in accordance with this Corporate Complaints Procedure. Directors may appoint one DCO per Department or one DCO who will act for all Departments in a Directorate. DCOs will make appropriate arrangements for cover.
- 2.9.2 DCOs will be responsible for:
 - ensuring that information about this Corporate Complaints Procedure is prominently displayed at all points of access and notice boards;
 - ensuring that all staff within the Directorate/Department are aware of this Corporate Complaints Procedure;

- acting as a liaison between Customer Services and their Directorate/Department;
- ensuring that all staff comply with the Council's Records Management Policy;
- monitoring and supervising their staff and contractors' compliance with this Corporate Complaints Procedure;
- sharing findings, actions, good practice etc with other DCOs.

2.10 Records management

2.10.1 The Council's Records Management Policy defines a 'record' as any recorded information in any form, including data in computer systems created or received and maintained by or on behalf of the Council in the transaction of business or the conduct of affairs and which:

- informs, supports, provokes or evidences decision-making or activity by or on behalf of the Council or;
- is required to be kept by legislation, or for audit or other organisational purpose or;
- safeguards the position of the Council and/or its stakeholders,
- requires to be maintained/controlled i.e. managed,

regardless of medium (paper, microfilm, electronic, audio-visual, copies of publications etc.) and which are created, collected, processed, used, stored and/or disposed of by the Council, its employees and any other person/body/organisation acting for or on behalf of the Council as its agent.

2.10.2 All formal complaints and the Stages through this Corporate Complaints Procedure will be logged on Infreemation. This will ensure that complaints records are fully maintained and preserved.

2.10.3 Poor record keeping exposes the Council to criticism in the event of legal action or Ombudsman investigation. It may also, in some circumstances, leave the Council with no credible defence, whatever the actual merits of a particular case. Ad hoc record keeping practices in the Council contribute to inefficiencies and poor decision-making.

2.10.4 Records may naturally arise in the course of everyday work, such as sending an email. In other cases, where the activity does not automatically result in the creation of a record, staff need to create one. Examples include meetings, telephone conversations and informal discussions.

2.10.5 Good record keeping assists in improving accountability and provides for transparent decision-making. Staff are to observe the following rules associated with the Council's Records Management Policy:

2.10.6 Record keeping compliance requirements

The table below lists the compliance requirements for record keeping:

1	Records must be made
1.1	Requirements to make records are identified and documented
1.2	Policy, procedures and business rules direct how and when records should be made and captured
1.3	All staff are aware of their responsibilities to make records
1.4	Required records are made
2	Records must be accurate
2.1	Records are accurate
2.2	Records are made at the time of or as soon as practicable after the event or transaction to which they relate
3	Records must be authentic
3.1	Records are routinely captured into official record keeping systems
3.2	Appropriate metadata is created and captured, or otherwise associated with records
4	Records must have integrity
4.1	Unauthorised access, alteration, deletion or destruction of records is forbidden
4.2	Record keeping systems and storage facilities are designed and implemented to protect records from unauthorised access, alteration, deletion or loss
4.3	Records are uniquely identified
4.4	Migration of records from one system to another is controlled and documented
5	Records must be useable
5.1	Records are linked to the business context
5.2	Records relating to the same business activity or transaction are linked to each other
5.3	Location and use of records is recorded and tracked
5.4	Records are accessible for as long as they are required

2.11 Retention of complaints records

Records of complaints and their outcome will be retained and disposed of in accordance with the Council's [Retention and Disposal Policy and Schedule](#).

2.12 Reporting procedure/annual review

- (a) The Council appoint a Member Responsible for Complaints ('MRC') they are the Council's Cabinet Portfolio Holder for Housing and is also the chairman of the Housing Advisory Board. They will facilitate an

annual complaints performance and service improvement report for the Housing Landlords Service only.

- (b) Complaints activity, including results of Ombudsmen investigations will be regularly analysed by DCOs to identify patterns of complaints and possible service improvements.
- (c) The Audit Board will receive an annual report from the Corporate Complaints Officer on complaints activity in the previous year. The report will:
- identify trends in complaints;
 - identify deficiencies/weaknesses in the service and management system and procedures;
 - identify improvements to service delivery/systems introduced in response to complaints;
 - recommend action to minimise or avoid similar complaints in future;
 - recommend procedural improvements for handling and resolving complaints;
 - identify training and information needs.
- (c) Any acknowledged deficiencies in the Council's services/systems, policies etc must be remedied as quickly as possible. Any recommendations as to how deficiencies will be remedied and/or the service improved will require the production of an action plan by the DCO. The timescale for implementing any actions will be three months but may be extended in consultation with the Corporate Complaints Officer.

2.13 Training and support

- 2.13.1 Guidance notes and training on best practice in complaints handling will be offered to all staff involved in dealing with complaints. Complaints handling will be included as a core module in the Customer Services training programme.
- 2.13.2 Refresher courses will be run by the Corporate Complaints Officer. Directors, the Corporate Complaints Officer and DCOs will offer guidance and support. The whole ethos of the complaints system is to improve the Council's performance and perceptions of its performance; to learn from mistakes; and to build trust by being open and honest in handling complaints.

3. WHAT IS A COMPLAINT?

A complaint is defined as '*An expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the*

organisation, its own staff, or those acting on its behalf, affecting an individual resident or group of residents’.

This definition is in line with that of the Housing Ombudsman and Local Government & Social Care Ombudsman's definition. The definition does not include appeals against, or objections to, decisions of the Council which should generally be pursued by way of the appropriate statutory or other appeals procedure.

- 3.1 A complaint is an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the Council, its contractors or its staff, affecting an individual customer or group of customers. If in doubt, a matter should be recorded as a complaint. Delays, non-provision of services or finance, policy issues etc. should be included.
- 3.2 The word ‘complaint’ is often used to describe complaints to the Council e.g. reports of potholes in roads and complaints about the Council (i.e. complaints about things which the Council has done which the complainant feels it ought not to have done; or complaints about things which the Council has not done which the complainant feels it ought to have done).
- 3.3 If a member of the public has plucked up the courage to complain, he/she is unlikely to want to argue about semantics or definitions. The key is not to be too rigid in the way a complaint is defined.
- 3.4 A complaint may take many forms, from dissatisfaction about repairs work to an allegation against an individual. It may be contained in a telephone call or some other means of communication, either personal or written. There are routine complaints, which can be dealt with quickly, or more serious or complex ones, which need investigation by senior members of staff.
- 3.5 Complaints about the Council can be broadly categorised as follows:
 - (a) failure to provide a service at the level or standard expected of the Council;
 - (b) the unhelpful attitude of an employee of the Council;
 - (c) neglect or delay in answering a query or responding to a request for service;
 - (d) failure to follow the Council's agreed policies, rules or procedures;
 - (e) failure to take proper account of relevant matters in coming to a decision (NB: this may not be a complaint but a request for reconsideration or an appeal of a decision);
 - (f) failure to tell people of their rights;
 - (g) malice, bias or discrimination, victimisation and harassment.

3.6 **What is not covered by this Corporate Complaints Procedure?**

- requests for a service, for instance initial reporting of a faulty street light;
- complaints about court proceedings;
- complaints about personnel matters concerning employees of the Council;
- complaints about something which affects all or most of the inhabitants of the Borough, for instance the amount of Council Tax being levied;
- complaints about matters for which there is a right of appeal to a Tribunal or to a Government Minister, for instance, refusal of planning permission;
- complaints for which there is a legal remedy, for instance, an injury claim;
- complaints already being dealt with by the Local Government/Housing Ombudsman;
- complaints from employees of the Council (except as external users of services);
- matters which have arisen more than twelve months before the complaint is made, unless there are very special circumstances;
- matters connected with 'internal malpractice' and the employment protection for individuals disclosing certain information in relation to the workplace (refer to the Whistleblowing Policy);
- matters connected with the level of Housing Benefit/Council Tax Benefit awarded;
- policy issues, e.g, the allocation of resources or prioritisation of works;
- systematic failure of the Council to discharge a function for which it is responsible.

When a decision is taken not to accept a Stage One complaint, an explanation will be provided to the customer setting out the reasons why the matter is not suitable for the complaints process and their right to take that decision to the relevant Ombudsman.

3.7 **Data Protection Act 2018 and the UK GDPR**

- (a) In order to provide a service or deal with any complaints or enquires, it is necessary for the Council to collect and hold personal information. The lawful basis for processing personal information is where it is necessary to 'perform a task in the public interest or in the exercise of official authority vested in the Council as Data Controller' – UK GDPR Article 6(1)(e) and DPA 2018, section 8(c).
- (b) Some of the information that is collected is classified as
 - special category personal data - where processing is necessary for the reasons of substantial public interest (UK

GDPR Article 9(2)(g) and DPA 2018, Schedule 1, para.6(1) & (2)(a))

- criminal convictions and offences - where processing is necessary for reasons of substantial public interest (UK GDPR Article 10 as supplemented by DPA 2018 section 10(5) & Schedule 1, Part 2, paras. 6(1) and (2)(a))
- (c) The Council uses the personal information it collects to process complaints and to check the level of service it provides through customer feedback. The Council can compile and publish statistics showing the number of complaints it receives, but not in a form which identifies anyone.
- (d) Customers are not obliged to provide the personal information asked of them. If they chose not to do so, in many cases, the Council will not be able to provide them with a service or respond to any complaints or enquiries they may have.
- (e) For further details on how to comply with the data protection legislation, refer to the [Corporate Privacy Notice](#) and the [Complaints Process Privacy Notice](#)

3.8 Confidential complaints

Normally, the Council will respect the wishes of complainants who identify themselves but ask for their identity to remain confidential throughout the investigation i.e. confidential complaints. However, this may not always be possible e.g., where it appears that a criminal offence may have been committed, the Council may need to pass any relevant information to the Police to investigate.

3.9 Anonymous complaints

Anonymity makes it more difficult properly to investigate and understand a complaint, and to provide appropriate responses or redress, and it is preferable for complainants to avoid anonymity for these reasons. When accepting anonymous complaints, it will often be the case that this will limit full investigation of the complaint and where possible, the complainant will be advised of this limitation at the time the complaint is made (e.g., where the complaint is received over the telephone). It should be noted however, that anonymous complaints might provide an early warning of unacceptable practices. Anonymous complaints must therefore be referred to the relevant Director who may arrange for an appropriate investigation.

3.10 Unreasonably persistent and/or vexatious complainants

- (a) There should be no discrimination between complainants on any grounds, including their 'history' of complaints or perceived view of the Council. However, any complaints system is open to abuse,

and sometimes it needs to be recognised that as much as can be done has been done to try to resolve a complaint.

- (b) Persistent or vexatious complainants may make a number of separate complaints over a period, or they may have made many contacts with the Council about one complaint. Difficulties may arise from the fact that the complainant is intent on pursuing a complaint that has already been addressed or, in the Council's opinion, has no merit; or it may be the manner and frequency of the complainant's contacts with the Council, which causes problems.
- (c) Where it appears that a complainant is acting unreasonably or the complaint is deemed vexatious, the Directorate/Departmental DCO will consult with the relevant Director and seek the advice of the Head of Legal Services on the feasibility of applying the [Policy on Unreasonably Persistent and/or Vexatious Complainants](#) (based on the Information Commissioner's guidance titled 'Vexatious or Repeated Requests').
- (d) The following circumstances may be regarded as illustrative of conduct by a vexatious complainant. The list is not exhaustive or conclusive. The complainant may:
 - 1. have insufficient or no grounds for their complaint and be making the complaint only to annoy (or for reasons that he/she does not admit or make obvious);
 - 2. refuse to specify the grounds of a complaint despite offers of assistance;
 - 3. refuse to co-operate with the complaints investigation process while still wishing their complaint to be resolved;
 - 4. refuse to accept that issues are not within the remit of this Corporate Complaints Procedure or other complaints process despite having been provided with information about the scope of the Procedure or process;
 - 5. refuse to accept that issues are not within the power of the Council to investigate, change or influence (examples could be a complaint about a private car park, or something that is the responsibility of another organisation);
 - 6. insist on the complaint being dealt with in ways which are incompatible with this Corporate Complaints Procedure or other complaints process or with good practice (insisting, for instance, that there must not be any written record of the complaint);
 - 7. make what appear to be groundless complaints about the staff dealing with the complaints, and seek to have them dismissed or replaced;

8. make an unreasonable number of contacts with the Council, by any means (telephone, letter, email or in person) in relation to a specific complaint or complaints (it is impracticable to suggest a number in these guidelines, so staff must use their own judgement to determine what an unreasonable number is in any one case);
9. make persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained in writing (or in another appropriate form) to the complainant (an example of this could be a complainant who insists on immediate responses to numerous, frequent and/or complex letters, telephone calls or emails);
10. threaten, harass, verbally abuse, use physical violence and repetitive language of an obsessive nature to intimidate staff and/or Councillors dealing with their complaint and/or their families;
11. raise subsidiary or new issues whilst a complaint is being addressed that were not part of the complaint at the start of the complaints process;
12. introduce trivial or irrelevant new information whilst the complaint is being investigated and expect this to be taken into account and commented on;
13. change the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed;
14. deny statements he/she made at an earlier stage in the complaints process;
15. electronically record meetings and conversations without the prior knowledge and consent of the other person involved;
16. adopt an excessively 'scattergun' approach, for instance, pursuing a complaint or complaints not only with the Council, but at the same time with a Member of Parliament, other councils, councillors of this and other councils, the Council's external auditor, the police, lawyers and the Local Government/Housing Ombudsman;
17. refuse to accept the outcome of the complaints process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given;
18. make the same complaint repeatedly, perhaps with minor differences, after the complaints process has been concluded and insist that the minor differences make these 'new' complaints which should be put through the full complaints procedure;
19. persistently approach the Council through different routes about the same issue;
20. persist in seeking an outcome which the Council has explained is unrealistic for legal or policy (or other valid) reasons;

21. refuse to accept documented evidence as factual;
22. complain about or challenge an issue based on a historic and irreversible decision or incident;
23. refuse to accept documented evidence;
24. refuse to identify the precise issues which the complainant wishes to have investigated;
25. refuse to let the matter rest once the complaints process has been exhausted;
26. displaying unreasonable demands or expectations e.g. insisting on responses to complaints or enquiries being provided more urgently than is reasonable or normal recognised practice;
27. ulterior motives in lodging a complaint;
28. combination one or more of these features.

Referring unreasonable and unreasonably persistent/vexatious complainants to the Local Government/Housing Ombudsman

In some cases, relations between the Council and unreasonable and unreasonably persistent/vexatious complainant may have broken down before the issue of the complaint decision or while the complaint is under investigation and there is little prospect of achieving a satisfactory outcome. In such circumstances, there is often little purpose in following through all stages of this Corporate Complaints Procedure and where this occurs, the Ombudsmen may be prepared to consider complaints before this Procedure has been exhausted.

A complainant who has been designated by the Council as an unreasonably persistent/vexatious complainant may make a complaint to the Ombudsmen about the way in which he/she has been treated. The Ombudsmen are unlikely to be critical of the Council's action, if it can show that its [Policy on Unreasonably Persistent and/or Vexatious Complainants](#) has been operated properly and fairly.

3.11 Time limit for submitting complaints

- (a) Early resolution of issues is key to an effective complaint handling process, therefore the Council encourages customers to raise their complaint at the earliest possible opportunity, ideally within three months. Other than in exceptional circumstances, which will include complaints referred to the Council by the Ombudsmen, and instances where the service Department has been in prolonged discussions with the complainant, the Council will not investigate complaints more than twelve months after the cause of complaint has arisen.

- (b) Any complainant wishing to have a matter more than twelve months old investigated will need to explain their reasons for not raising this within the timescale. In line with best practice, complaints should be resolved at as close a point in time to the issue arising and the passage of time might well prevent a full and fair investigation taking place, which is the reason for encouragement of complaints to be raised at the earliest opportunity.
- (c) Where a complainant has provided good reason for not raising matters sooner, the DCO must still consider the practicality of undertaking an investigation of long past incidents and of providing a meaningful outcome before activating this Corporate Complaints Procedure.

3.12 Variation to this Corporate Complaints Procedure

Whilst this Corporate Complaints Procedure outlines the formal processes to be followed, occasionally variations to the processes may be required, particularly for complaints categorised in this Corporate Complaints Procedure as 'special cases' or where discussions have been ongoing between the complainant and the relevant service area for a period of time, resulting in no resolution. In these circumstances, the relevant Director may exercise their discretion and vary this Corporate Complaints Procedure e.g by-passing Stage One and escalating the complaint to Stage Two.

3.13 Acknowledging the complaint

Acknowledging the complaint within 5 working days of receipt of the complaint is a matter of good customer practice. If the complaint is simple to deal with and a full response can be provided straight away, the decision on the complaint may be provided within the acknowledgement.

3.14 The ticking clock

The deadline for providing a full response to a complaint is as set out in para. 2.7. The key point is to ensure that when complaints arrive, that the date that they have been received is logged on Infreemation. Complaints must be fully responded to within the timescales detailed in para.2.7 unless an extension of time has been agreed with the complainant, and the clock starts ticking on the first working day that the complaint is 'received' into the Council.

3.15 Extension of the working days' response deadlines (see para. 2.7)

Agreeing an extension of time with the complainant may be appropriate where consultation with third parties is necessary or when dealing with complex complaints etc. Agreements on any extension of time must be recorded on Infreemation. Any extension must be no more than 10 working days for Stage One complaints and 20 working days for Stage Two complaints. The customer must be informed of the extension with the reasons clearly explained, and provided with the contact details of the relevant Ombudsman.

3.16 What is a 'working day'?

- (a) The Freedom of Information Act 2000 defines the 'working day' as being any day other than a Saturday, a Sunday or a public holiday. In other words, the working day is Monday – Friday. This applies even if a Department's working week is Tuesday - Saturday, or whether the Department is only open for a couple of days a week. So, if correspondence arrives into the office on a Saturday, it only counts as being 'received' on a Monday morning because Saturday isn't a working day. Any temporary closures to the public are still counted as working days.
- (b) The Freedom of Information Act 2000 does not define what hours from Monday - Friday are considered to be working hours. However, the Council is using 8.45 am - 5.15 pm Monday to Thursday and 8.45 am - 4.45 pm Friday as its working hours. Any complaints received after 5.15 p.m. on Monday, e.g. by email, would count as being legally 'received' at 8.45am on Tuesday morning. Similarly, Saturday does not count as a working day, and therefore a complaint which arrives after 4.45pm on a Friday, will count as being legally 'received' on the following Monday.
- (c) Even if the Department is completely closed on Mondays with no staff in the building, if post comes into the Department, it counts as being 'received' on Monday, and the clock starts ticking. Day one of the working days' timescales referred to in para.2.7, is the day the request is received into/by the Council – whether someone is there to open it or not.
- (d) If there is no way of telling which day the correspondence was received, then assume it arrived on the earliest possible day, or at least the middle day (in this case, Friday or Monday), just to be on the safe side to ensure that the relevant working days' deadline (see para. 2.7) is met as far as possible.

3.17 Date stamp the post

- (a) Since the clock starts ticking on the first working day when the complaint is received by the Council, it is important to obtain

evidence of this by ensuring that all post is date stamped (or some other similar way of recording the information) when it comes into the Council. However, remember that if the date on emails is a Saturday or Sunday, legally, the clock will start ticking on the following Monday. In other words, the date on the email itself is usually the date it was sent, rather than the date it was 'received'.

- (b) The Council's post is opened by the Post Room, who date stamp and scan the correspondence and forward it on to the appropriate Department for logging and reply. Remember, the main issue is to get evidence of the working day the complaint was received by the Department and remember that the clock starts from the day the complaint was received into the Council, not necessarily the day the correspondence was opened or read or logged on Infreemation.

3.18 Covering during staff absences

- (a) DCOs and service Managers need to consider what will happen when they are absent. Departments should have procedures in place to ensure that post is dealt with. Similarly, what if a complaint comes in by email into an individual's inbox whilst they are away? Do staff use the 'out of office' messaging service and have procedures to allow colleagues to check their email if they are absent?
- (b) Due to the limited time-scales available for reaching a decision in relation to complaints, it is important that the decision - making function be delegated to another Officer within the Department concerned, during periods of absence of the Directorate/Departmental DCO and/or service Manager.

4. DISTINGUISHING BETWEEN A COMPLAINT, ENQUIRY, COMMENT AND COMPLIMENT

- 4.1 Making the distinction is important, as it will determine what action should be taken.
- 4.2 **What is an "...expression of dissatisfaction..." v- a service request ?**

It is important recognise the difference between a formal complaint and a service request.

A first time request for a service or for information that is properly for the Council to give should not be seen as a complaint. However, a repeated request for the same service or information is a clear indication that the Council may not have performed according to its service standards. A repeated request may well, therefore, take the form of a complaint. It is also important to appreciate that the

complainant does not have to use the word "complaint" when expressing dissatisfaction.

4.3 **What does "...about an aspect of service" mean?**

A complaint should relate to some aspect of service that the complainant was entitled to receive. Here some important distinctions have to be made. All users of Council services, and potentially, that means the public at large, are entitled to receive from the Council the following basic service standards:

- that all users of Council services are welcome and that all enquiries are important;
- that staff are pleasant and polite at all times;
- that staff provide accurate and relevant advice;
- that staff and external contractors aim to provide efficient and effective services;
- that the users' written enquiries are dealt with properly with a reply in full within the timescales referred to in para.2.7, or if this is not possible, to explain when a full reply can be expected;
- that all telephone calls are answered within 5 rings at the extension;
- that a named contact in all correspondence is provided and that telephone callers are given the name of the person dealing with the enquiry;
- that visitors to reception areas or cash areas are dealt with promptly;
- that staff making visits always carry identification and present this to the service user;
- that if an enquiry cannot be dealt with, then the aim is to refer it to a person who can, with a minimum of inconvenience to the enquirer;
- that all users of Council services are afforded equal access.

4.4 Being entitled to courteous, prompt and fair service is not the same, however, as a user's final entitlement to some aspect of the services that the Council provides, for example a person's entitlement to benefit. In the case of entitlement to benefit and with some aspects of Council Tax, there are well-established 'appeal' procedures that may be invoked by users.

4.5 Appeals are of course a form of complaint, but the distinction here is, that statutory appeals procedures concern themselves only with some aspect(s) of law or regulation(s) and the decisions taken by Directorates/Departments of the Council. Statutory appeals' processes for benefits claimants and Council Tax payers are not intended to cover the qualitative aspects of service delivery as covered by the Council's basic service standards (except for timeliness where this is a matter within regulations). It is inevitable however, that 'quality of service delivery' will be raised in appeals and may influence the results. Hence

it is important, therefore, for all staff to observe and adhere to the basic service standards (para. 4.3 above).

4.6 Whether a complaint is about some aspect of service that the complainant was entitled to receive should be evident from the correspondence, telephone conversation or personal visit. Where it is clear that the Directorate/Department is not responsible for delivering the service in question, the complainant should be referred with minimum of inconvenience to the correct Directorate/Department/authority/agency. An acknowledgement should always be sent, informing the complainant of any re-direction.

4.7 **Enquiries and comments**

4.7.1 Enquiries should be self-evident. Comments, on the other hand, may be more difficult to distinguish from complaints. A comment is 'the expression of a personal remark or criticism' and may be general or specific.

4.7.2 A remark or criticism made without the expectation of a response (staff will have to use their own judgment here) should be seen as nothing more than a comment. Even so, in some cases, particularly where constructive comment has been received, staff should reply in writing indicating that the comment will be considered. Comments received that contain political references or cite named Officers, Councillors, the MP, or other individuals, should always be referred to the relevant Director.

4.7.3 A comment made in the expectation of a response for instance 'I shall be pleased to receive your views', or 'I welcome your comments', should always receive a reply. Unless there is some direct criticism, comments should not be regarded as complaints. Remember that a comment becomes a complaint only if it also expresses dissatisfaction about some aspect of service that the individual was entitled to receive. It is accepted that there may be a fine dividing line here and Directors and DCOs should pay particular attention in these cases, before deciding on the action to be taken.

4.8 **What is a compliment?**

A compliment may be defined as '*recognition of an action which was over and above the expected standards of service.*'

4.9 The Council wants to know that its users are satisfied with the standard of service it provides. Compliments, enquiries and comments helps the Council to know what it is doing well and where it needs to improve.

4.10 The procedure for logging compliments, enquiries and comments is outside this Corporate Complaints Procedure.

5. COMPLAINTS CATEGORISATION

5.1 Policy/External

5.1.1 Often complaints are received about policy issues that lie outside the control of the Council. Typically, this would include complaints about regulations governing Council Tax or benefit or even the level of central government financial support generally to the Council. Complaints of this type should always receive a reply explaining that the situation is not in the Council's direct control.

5.1.2 Where the complaint is about government policy and the complainant has indicated that he/she wishes their point to be considered, then the Council's reply should inform the complainant of the name and address of their local Councillor and MP. Bear in mind, however, that a person's 'policy' complaint, that is influenced by a decision over their benefit entitlement or Council Tax discount, may be a legitimate appeal. For this reason, staff should take care over their interpretation of this form of complaint. If in doubt, refer the matter to the Directorate/Departmental DCO.

5.2 Policy/Internal

Complaints may also be received about policy issues that are within the scope of the Council to control. This may include for instance, complaints about the levels of car parking charges. Complaints of this type require sensitive treatment and should not receive a dismissive response for example 'I am afraid it is Council policy and there is nothing I can do about it'. For most if not all of the Directorates'/Departments' activities, procedures follow some well-established principles example the procedures for recovery of Council Tax and other debts; the principles dictating the issues of car parking excess charges and the circumstances in which a waiver may be agreed. In all instances, polite and well-reasoned arguments are required to be given to complainants.

5.3 Complaints about Council employees

5.3.1 Complaints against Council employees fall within the 'special case' category and will normally be dealt with in accordance with this Corporate Complaints Procedure, unless para.5.3.2 applies.

5.3.2 Discrimination allegations under the Equality Act 2010 will be referred to and dealt with by Human Resources.

For the purposes of this para. 5.3.2, 'employees' are defined as:

- employees (those with a contract of employment with the Council);
- workers and agency workers (those with a contract to do work or provide services to the Council);

- some self-employed people (where they have to personally perform the work for the Council).

5.3.3 Employees will not be named when complaints are recorded but will indicate whether complaints are held to have any foundation. This information will be used to assess whether staff require further customer care training or re-training. DCOs are responsible for reviewing the training needs of frontline staff on a regular basis.

5.4 **Complaints about Councillors and Co-opted Members**

5.4.1 Complaints about conduct i.e. complaints which allege that Councillors (Borough and Parish/Town Councillors) and Co-opted Members have breached the relevant Code of Conduct (Borough or Parish/Town Council Codes), are dealt with outside this Corporate Complaints Procedure and addressed to the Monitoring Officer, Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR. However, there may be elements of the complaint which may require the application of this Corporate Complaints Procedure.

5.4.2 A separate complaints form has been designed for alleged complaints against Councillor and Co-opted Member misconduct. Complaints must be submitted in writing to the Monitoring Officer, which includes electronic submissions. Details of this very specific complaints process is on the [Council's website](#).

5.4.3 If in doubt about the process relating to Councillor and Co-opted Member misconduct complaints, contact the Monitoring Officer or the Corporate Complaints Officer.

5.5 **Complaints about the MP**

Complaints about the conduct of the Member of Parliament (MP) will be referred to the Parliamentary Commissioner for Standards - <https://www.parliament.uk/mps-lords-and-offices/standards-and-financial-interests/parliamentary-commissioner-for-standards/>

5.6 **Complaints about contractors**

(a) The service Directorate/Department will be responsible for ensuring that specific contract clauses relating to complaints handling are incorporated in contracts. The service Directorate/Department is also responsible for monitoring its contractors' compliance with this Corporate Complaints Procedure.

(b) Complaints against contractors will be treated as complaints against the service area employing the contractors.

- (c) Although complaints against contractors are categorised in this Corporate Complaints Procedure as a 'special case', such complaints will normally be dealt with in accordance with this Corporate Complaints Procedure and referred by the Directorate/Departmental DCO to the contractor. The DCO will liaise with the contractor and agree how the matter will be handled, by whom, within what timescales etc. and will notify the complainant accordingly.
- (d) In appropriate cases, the relevant Director may require the contractor to take certain interim measures to protect the interests of persons using its services.

5.7 Complaints about third parties

Occasionally, someone may complain to the Council about something that is the responsibility of a third party, for example another local authority or public body. In these cases, the complaint will be outside the control of the Council and referred to the appropriate body with an explanation to the complainant. No further action will be taken under this Corporate Complaints Procedure.

5.8 Complaints about malpractice (whistleblowing)

Complaints concerning malpractice within the organisation of the Council or a contractor fall within the 'special case' category and may need to be dealt with under the Council's Whistleblowing Policy. If in doubt, seek the advice of the Corporate Complaints Officer or Internal Audit.

5.9 Complaints against partner organisations

- 5.9.1 The Council works with and is in partnership with numerous organisations, and public bodies/authorities e.g. Kent County Council. In most cases, formal protocols or working agreements with these organisations allow joint working and information sharing on matters of joint interest, such as complaints activity.
- 5.9.2 If a complaint relates solely to a partner organisation, it should be dealt with by that partner organisation under its own complaints procedures. The complainant will be advised of the referral to the partner organisation. No further action will be taken under this Corporate Complaints Procedure.
- 5.9.3 If the complaint does not clearly relate to one or the other i.e. Council or partner organisation, it will be dealt with by the Council and the partner organisation in a co-ordinated manner. The Council will, in consultation with the partner organisation, take the lead and the complaint will be dealt with in accordance with this Corporate

Complaints Procedure. The Council will ensure that a co-ordinated response is provided to the complainant.

5.10 **Complaint against two or more Council services**

Occasionally, a complaint may concern two or more Council services. In the circumstances, one service Manager will take the lead at Stage One and ensure that a co-ordinated response is provided to the complainant.

5.11 **Ombudsmen referred complaints**

Ombudsmen referred complaints (i.e complaints considered by the Ombudsmen to be 'premature' for Ombudsmen investigation purposes) will be dealt with in accordance with this Corporate Complaints Procedure. The Ombudsmen will be kept informed of the outcome.

5.12 **Councillor Call for Action complaints**

- (1) Councillor Call for Action (CCfA)' is designed as a formal means whereby any ward Member who is not a member of Scrutiny Committee, can raise on behalf of a constituent, or on their own initiative, any 'local government matter' relevant to the Council's functions which is a genuine, significant and persistent **community concern**. Agreeing to champion a CCfA through the scrutiny process, is generally seen as a measure of last resort, once other approaches have been exhausted.

When a potential CCfA is raised with a Director, they will need to make a judgement about whether the issue should be dealt with under this Corporate Complaints Procedure or by other means, such as consultation with partner organisations, other local authorities etc.

5.13 **English language requirement for customer - facing employees – the 'fluency duty'**

Part 7 of the Immigration Act 2016 requires the Council to comply with the 'fluency duty' i.e to ensure that any person who works for it, in a customer-facing role, speaks fluent English.

A customer- facing role is where an employee, apprentice and/or agency worker has as a regular and intrinsic part of that role, a requirement to speak to members of the public in English. This could be in face to face discussions or over the telephone. In many cases, it will be clear whether a role is intrinsically public-facing.

For the purposes of the fluency duty, a legitimate complaint is one about the standard of spoken English. The substantive issue of the complaint will be that the Council has not met the 'fluency duty'.

Subject to (a) and/or (b) below, if a complaint that an employee in a customer - facing role has insufficient proficiency in spoken English for the performance of their role, the Council will deal with the complaint under this Corporate Complaints Procedure.

- (a) A complaint about an employee's accent, dialect, manner or tone of communication, origin or nationality is not a legitimate complaint about the 'fluency duty'.
- (b) The Council will not respond to complaints that are vexatious, oppressive, threatening or abusive. These words are given their usual dictionary meaning and seen as those complaints which are without foundation and/or which are intended to result in harsh or wrongful treatment of the person who is the subject of the complaint. In these types of circumstances, the complaint will not be taken forward by the Council and the Council may consider implementing its [Policy on Unreasonably Persistent and/or Vexatious Complainants](#).

Managers/investigating officers must have regard the 'Code of Practice on the English language requirements for public sector workers¹' when investigating a 'fluency duty' complaint.

5.14 **Examples of the most commonly raised complaints that are NOT within the remit of this Corporate Complaints Procedure**

Councillors

Complaints about Councillors are made to the Monitoring Officer, Dartford Borough Council, Civic Centre, Home Gardens, Dartford, Kent DA1 1DR <mailto:MonitoringOfficer@dartford.gov.uk>

Highways

Complaints about highways (potholes broken paving slabs etc), including trees and hedges and verges on highways and street and street lamps are dealt with by Kent Highways Services, Kent County Council, Invicta House, County Hall, Maidstone, Kent ME14 1XX: Tel: 0300 041 8181 Kent.highwayservices@kent.gov.uk

Homelessness Decisions

There is a two stage process for dealing with disputes about homelessness decisions under Part VII of the Housing Act 1996 or the Homelessness Act 2002. The first stage is a review of the decision within 21 days of the date the decision. The application will be looked at again by a more senior officer within the Housing Service who was not involved in the original decision or by an independent reviewer. The senior officer or independent reviewer has 56 days to complete the review but this can be extended if all parties agree. The second stage

¹November 2016

is a further challenge of the decision on a point of law by applying to the Dartford County Court.

Housing Benefit/Council Tax Benefit Decisions

There is a two stage process for dealing with complaints about entitlement to Housing or Council Tax Benefits. The first stage is an internal review by the Council's Benefits Department: the second stage is an appeal to the First-tier Tribunal on Housing Benefit and Council Tax Benefit.

Liability for Council Tax or Business Rates

There is a two stage process for disputing liability for Council Tax or Business Rates. The first stage is by representation to the Council Tax/Business Rates Department: the second stage is by appeal to the Valuation Office for Council Tax and for Business Rates, via the Magistrates' Court at a liability order hearing.

Parking Penalty Charge Notices

Complaints by motorists who believe that they are not liable for a parking ticket (penalty charge notice) are dealt with by the Parking and Traffic Appeals Service, following representations to the Council's Parking Services Department.

Licensing Decisions

Appeals against licensing decisions are dealt with by Medway Magistrates' Court.

Refusal to Grant Planning Permission

Appeals against refusal of planning permission are dealt with by the Planning Inspectorate of the Ministry of Housing, Communities and Local Government.

6. WAYS IN WHICH TO MAKE A COMPLAINT

Complaints can be made in person, by phone, by email/internet, on audiotape, in writing, in Braille and in languages other than English.

6.1 In writing

Complainants are encouraged to lodge their formal complaint in writing preferably using the complaint form attached to the 'How to complain to Dartford Borough Council' leaflet, addressed to the Corporate Services Team.

- 6.1.1 As well as hard-copy written correspondence, this term includes requests that are transmitted electronically (for example, in emails) - provided that they are legible and can be used for subsequent reference (that is to say, they are lasting in nature). Text messages are not regarded as written communication.

6.1.2 Where a person is unable to frame their complaint in writing, the Council should provide appropriate advice and assistance to enable the complainant to frame their complaint. This may include advising the person that someone else may be able to help them or make the complainant on their behalf. In exceptional circumstances, providing appropriate assistance may include offering to take a note of the complaint and either immediately confirming the note with the complainant or sending the note to the complainant for confirmation.

6.2 **By telephone (including [Relay UK](#))**

If the person who is the first point of contact cannot solve the matter immediately and the customer expresses dissatisfaction, the matter should be referred to the Corporate Services Team and logged as a formal complaint on Infreemation and referred to the service Manager of the Department being complained about and copied to the Directorate/Departmental DCO and Corporate Complaints Officer.

6.2.1 The essential difference with a written complaint is that the screening process may not always apply with complaints received by telephone.

6.2.2 Complainants may speak directly about their complaint or their complaint may arise following conversation about some aspect of service. The person taking the call, should endeavour to deal with the complaint unless it is outside their scope to do so.

6.2.3 The complainant may name a member of staff who they would like to speak to.

6.2.4 If the complainant has not named a member of staff who they would like to speak to and the complaint is clearly a Directorate's/Department's responsibility, the complainant should be referred to a named service Manager with the minimum of inconvenience. If a call has to be subsequently re-routed to another Directorate/Department, the complainant should be given reasons for this and the name of the person who will deal with the complaint.

6.2.5 Where the complainant is making a direct complaint about the person they are speaking to, staff are advised that they should refer the call to their Directorate/Departmental DCO. Directors, DCOs and service Managers should be alert to the situation and should be prepared to intervene in a call, where it is clear that another member of staff is having difficulty.

6.2.6 At the time of the telephone call, and as a precautionary measure, a note of the complaint (normally by completing the complaint form attached to the 'How to complain to Dartford Borough Council' leaflet) should always be taken and the note confirmed with and/or sent to the complainant.

6.3 Personal visits

If the person who is the first point of contact cannot solve the matter immediately and the customer expresses dissatisfaction, the matter should be referred to the Corporate Services Team and logged as a formal complaint, on Infreemation and referred to the service Manager of the Department being complained about and copied to the Directorate/Departmental DCO and Corporate Complaints Officer.

- 6.3.1 The complainant may have an expectation that his/her matter will be attended to directly. Staff should appreciate this, as a personal visit from a complainant, is often a sign of despair on the part of the complainant. Attending to a personal visitor's complaint should be priority wherever possible. This is not the same as someone who does not demonstrate reasonable patience when attending reception points (here the maximum time that any visitor may be expected to wait is 8 minutes with the average waiting time being 5 minutes).
- 6.3.2 The person taking this form of complaint will normally be Customer Services. The important matters for staff are:
- to understand the problem;
 - to be able to judge for themselves if it is a matter within their scope and if not, to know who is more able to deal with the matter;
 - to ensure that the complaint is dealt with promptly.
- 6.3.3 Staff must assess the mood of the complainant and be alert to any possible threat of unreasonable behaviour or even violence. In these circumstances, assistance should be sought.
- 6.3.4 At the time of the personal visit, and as a precautionary measure, a note of the complaint (normally by completing the complaint form attached to the 'How to complain to Dartford Borough Council' leaflet) should always be taken and the note confirmed with and copied to the complainant.

6.4 Complaint via/from a Councillor/MP

- (a) Complaints raised by Councillors or the MP on behalf of a constituent(s) will be logged on Infreemation and dealt with in accordance with this Corporate Complaints Procedure.

The MP's office should address all communication to the MPAs² who will log the complaint and forward the complaint to the relevant head of service and Director. The service Manager will respond to the MP, under copy to the MPAs.

²Leadership Team secretariate

- (b) If Officers are preparing responses to enquiries from Councillors or the MP, Officers should bear in mind that their responses may be copied to the complainant. Officers should therefore establish the level of detail to be included in the correspondence, to avoid the disclosure of confidential/exempt/sensitive information.
- (c) If Councillors or the MP request a response and indicate that the information is to be referred to the complainant then, subject to para.(b) above, the response should include full details and be produced in 'lay person's' language. As an alternative, Officers may respond directly to the complainant in 'lay person's' language, with a copy for the Councillor or the MP.
- (d) In an extreme case, a Councillor may feel that they cannot act on behalf of a complainant because of a breakdown in the working/personal relationship between them. In the circumstances, the Councillor should refer the complaint to their Group Leader who should be asked to nominate an alternative representative.

6.5 Complaint via the Internet

Complaints can be made using an [online complaint form](#) on the dedicated complaints page on the [Council's website](#). Electronic complaints, once submitted, will be directed to the Corporate Services Team who will log the complaint on Infreemation. This Corporate Complaints Procedure will then be activated.

6.6 Complaint via email

A dedicated email address has been set up complaints.officer@dartford.gov.uk. Electronic complaints, once submitted, will be directed to the Corporate Services Team who will log the complaint on Infreemation. This Corporate Complaints Procedure will then be activated.

6.7 Advice and assistance in making a complaint

- 6.7.1 Not all complainants are confident and articulate. A complainant who is unable to express their own views, for whatever reason, will be provided with assistance and guidance on how to formulate their complaint, including advice and guidance on the use of this Corporate Complaints Procedure and be given details of organisations who may be able to assist them in making their complaint.

If a complaint is formulated on behalf of the complainant, extreme care must be taken to ensure that the complaint is formulated correctly using words used by the complainant. The nature of the complaint must always be confirmed with the complainant.

6.7.2 Who else can help?

1. **Dartford Citizens' Advice Bureau**
Tel: 0800 278 7810
Website: www.citizensadvice.org.uk
2. **Disability Information Advice Line (DIAL)**
Advice Tel: 01474 356 962
3. **Local Councillor or MP**
Tel: 01322 3433430 (Democratic Services)
Website: www.dartford.gov.uk
4. **Council for Voluntary Service North West Kent**
who will tell the complainant of organisations that offer support:
Tel: 01474 354479
5. **Kent Equality Cohesion Council**
If the complainant feels they have been discriminated against because of their race:
Tel: 01474 369329
6. **Equality Advisory Support Service**
If the complainant feels they have been discriminated against
Tel: 0808 800 0082
Website: <https://www.equalityadvisoryservice.com/>

7. **SPECIAL CASES AND FAST TRACK ACTION**

7.1 A complaint, which concerns any one or more of the following, will be treated as a special case and subject to para. 7.3 below, will normally be investigated in accordance with this Corporate Complaints Procedure.

- allegations of abuse;
- conduct which may be a criminal offence;
- malpractice (whistleblowing) within the organisation of the Council or contractor;
- complaint against a member of staff;
- complaint against a contractor;
- any form of discrimination;
- other complaints considered by the relevant Director to be of a serious and/or complex/special nature.

7.2 **Fast track action** may be required i.e. referral to another agency or procedure e.g. the Police, external auditor, Council's Disciplinary and Dismissal Policy and Procedure, Whistleblowing Policy etc. This Corporate Complaints Procedure and other processes may run in parallel, however, the relevant Director may exercise their discretion and discontinue the investigation of a complaint and/or take no further action under this Corporate Complaints Procedure if fast track action

results in the investigation of the complaint and/or action being taken by another body/organisation or through another procedure.

- 7.3 Complaints about fraud and equalities issues will be investigated by a person who has received specific training or has expertise/knowledge in the relevant area. The nature and scope of any investigation may need to take account of the views of any other body having an interest.
- 7.4 Where fast track action applies, the Directorate/Departmental DCO must ensure that the details of the complaint are classified as confidential on Infreemation.

8. STAGES OF THIS COMPLAINTS PROCEDURE

- 8.1 Those wishing to make a complaint are encouraged to do so in writing, using the [online complaint form](#). Where it is not possible to use the online complaint form, customers may use the 'How to Complain to Dartford Borough Council' leaflet. The Ombudsman's view is that the complaint form should be a way of making it easier for customers to complain.

If a complainant has difficulties in making a written complaint at any of the Stages of this Corporate Complaints Procedure, they can request assistance or submit their complaint in an alternative form, such as over the telephone, by email or in person.

If in doubt, seek guidance from the Corporate Complaints Officer.

8.1.1 STAGE ONE (EXPRESSING DISATISFACTION)

Remember, resolution and apology should be immediate where possible. Customers most often want an explanation, an apology and reassurance that the same thing will not happen to others.

- (a) The complaint will be logged on Infreemation and allocated to the service Manager of the service being complained about and copied to the Directorate/Departmental DCO and Corporate Complaints Officer. Officers will have regard to the Ombudsman's Good Administrative Practice at <https://www.lgo.org.uk/>
- (b) The complaint must be **acknowledged** within 5 working days of receipt by the Council. The acknowledgement will set out the understanding of the complaint and the outcomes the customer is seeking, including the name of the service Manager responsible for investigating the complaint, and the target date for response. The target for replying to complaints at Stage One is 10 working days from the date of acknowledgement by the Council.

If it is not possible to provide the complainant with a full response within the timescale(s) referred to above, the complainant must be told whether an extension of up to 10 working days will be applied and when to expect a reply (see para.3.15 for details on using extensions).

- (c) If the basis of the complaint is not evident or clear enough, the service Manager will contact the complainant to clarify the focus of their complaint and then decide how the complaint should be taken forward. Options may include:
- answering a question;
 - providing further information;
 - clarifying a misunderstanding;
 - acknowledging and/or rectifying an error.
- (d) The service Manager's conclusions may take the following form:
- To uphold the complaint;
 - To partially uphold the complaint;
 - Not to uphold the complaint.
- (e) When the complaint has been considered, the service Manager will write to the complainant explaining how and why they have come to their conclusion(s)/decision(s). As a matter of good practice, the response should include the findings of fact and reason(s) for the decision.
- (f) If the complaint is upheld (i.e. the facts have been established), the service Manager will apologise to the complainant and consider whether any other actions and/or remedies are appropriate.
- (g) If the complaint is partially upheld (i.e. where some of the facts have been established), the service Manager will apologise to the complainant and consider whether any other actions and/or remedies are appropriate.
- (h) If the complaint is not upheld (i.e. the facts have not been established), the service Manager will provide the complainant with an explanation.
- (i) Normally, the complainant will be given the name and contact details of the Corporate Complaints Officer, should they wish to pursue their complaint under Stage Two of this Corporate Complaints Procedure. However, in certain circumstances (such as the complainant's conduct causes concern (see the grounds listed in para. 3.10(d) of this Procedure) or the complaint concerns a Council decision and/or action which is in accordance with legislation and/or Council policy and procedure), the relevant Director may exercise their discretion not to investigate the complaint beyond Stage One. Where this discretion is exercised, the complainant must be provided with an explanation and

of their right to complain to the Local Government & Social Care Ombudsman or the Housing Ombudsman.

- (j) The Corporate Services Team is responsible for updating Infreemation at the conclusion of this Stage One.

8.1.2 STAGE TWO (FORMAL INVESTIGATION)

Remember, resolution and apology should be immediate where possible. Customers most often want an explanation, an apology and reassurance that the same thing will not happen to others.

- (a) The request for a Stage Two investigation must be logged on Infreemation by the Corporate Services Team. The Stage Two request will be allocated by the Corporate Complaints Officer to the relevant Director and copied to the Directorate/Departmental DCO.
- (b) Stage Two is an opportunity to consider a case completely afresh, through a formal investigation.
- (c) The relevant Director will identify/nominate an investigating officer independent of the Stage One decision (hereinafter referred to as the investigating officer). This person will normally be a representative from management other than the line manager e.g. the head of service or the relevant Director may choose to investigate personally.

An investigating officer should be impartial and able to apply fairness and objectivity. Ideally, the investigating officer should have attended training on the complaints procedure and on carrying out investigations.

- (d) The relevant Director may exercise his/her discretion and appoint an independent investigator (external to the Council). Examples of situations where such an appointment would be considered are:
 - allegations of abuse of process;
 - allegations of discrimination, harassment and/or victimisation.

The independent investigator will correspond directly with the complainant and follow the key stages of the investigation process detailed below. At the end of the investigation, a report will be supplied by the independent investigator to the relevant Director, detailing the findings.

- (e) The request for a Stage Two investigation must be **acknowledged** within 5 working days of receipt by the Council. The acknowledgement will set out the understanding of the complaint and the outcomes the customer is seeking, including the name of the investigating Officer, and the target date for response. The target for replying to complaints at this Stage of this Corporate Complaints Procedure is 20 working

days from the date of acknowledgement of the request by the Council. If it is not possible to provide the complainant with a full response within 20 working days, the complainant must be told whether an extension of up to 20 working days will be applied and when to expect a reply (see para.3.15 for details on using extensions). The complainant will be advised that the investigating officer may contact them during the investigation, for further information.

(f) The investigating officer will need to agree with the complainant, a detailed, written statement of the complaint before embarking on a formal investigation. The complainant must be encouraged to explain why they are seeking to challenge the stage 1 decision so a proper review can be undertaken during the stage 2 investigation. If the Council is not able to properly understand the reasoning, as in why the stage 2 review is being sought, it is unlikely that any decision taken at the first stage will be changed or reversed.

(g) The investigating officer will:

- make sure that the complaint is clear;
- consider the complaint against any documents submitted by the complainant and/or associated with the complaint;
- check that the Stage One process has been completed;
- consider any new evidence;
- review, with the service Manager, the reasons for their Stage One conclusion/decision in order to build a full picture as to how the decision was arrived at;
- consider whether an interview with the complainant is necessary;
- consider the issues afresh for themselves;
- consult Legal Services if there are any doubts about the Council's statutory powers relevant to the issues;
- consider whether fast track action is required e.g referral to another organisation/body or procedure for investigation;
- decide upon their own findings in the light of these considerations*;
and
- write to the complainant setting out their findings.

**if, as a remedy, an offer of service is to be made to the complainant, the investigating officer must first discuss the feasibility/practicality of making such an offer, with the service Manager/Director*

(h) After concluding the investigation, the investigating officer should discuss their conclusions with the relevant Director in order to ensure that any internal processes which may need to be altered, are fully reviewed and amended where appropriate.

- (i) The investigating officer's conclusions may take the following form:
- To uphold the complaint;
 - To partially uphold the complaint;
 - Not to uphold the complaint.
- (j) The review will produce a detailed response, including the findings of fact and reason(s) for the decision. This will be the Council's final response to the complainant under this Corporate Complaints Procedure.
- (k) If the complaint is upheld (i.e. the facts have been established), the investigating officer will apologise to the complainant and consider whether any other actions and/or remedies are appropriate.
- (l) If the complaint is partially upheld (i.e. where some of the facts have been established), the investigating officer will apologise to the complainant and consider whether any other actions and/or remedies are appropriate.
- (m) If the complaint is not upheld (i.e. the facts have not been established), the investigating officer will provide the complainant with an explanation.
- (n) Whatever the outcome of the investigation, if the complaint is not related to local authority landlord functions (see para. 8.1.3 of this Procedure), the complainant must always be given details of their right to complain to the Local Government & Social Care Ombudsman, if they remain dissatisfied. If the complaint is related to local authority landlord functions (see para. 8.1.4 of this Procedure), the complainant has the right to complain to the Housing Ombudsman.
- (o) If complaints concern perceived discrimination, harassment, victimisation or unfair treatment by the Council because of the complainant's age, disability, gender reassignment, marriage and civil partnership, race, religion or belief, sex and sexual orientation, the complainant should also be advised that the following body is the ultimate authority to which to complain:
- Any form of discrimination:**
Equality Advisory and Support Service FPN4431
Tel: 0808 800 0082: Textphone: 0808 800 0084
www.equalityadvisoryservice.com
- (p) The investigating officer is responsible for ensuring that through the Corporate Services Team, Information is updated at all points of this Stage Two.

- (q) The Directorate/Departmental DCO will review the outcomes of Stage Two with a view to identifying patterns of complaints and using the information to improve services and identify training needs.

8.1.3 STAGE THREE (A LOCAL GOVERNMENT & SOCIAL CARE OMBUDSMAN INVESTIGATION) (for complaints not related to local authority landlord functions)

- (a) Complaints about the Council's landlord functions are considered by the Housing Ombudsman, rather the Local Government & Social Care Ombudsman (see para. 8.1.4 of this Corporate Complaints Procedure). However, complaints relating to housing allocations, homelessness, general housing advice, housing benefit, housing improvement grants, antisocial behaviour (other than tenant behaviour) noise nuisance, sale or disposal of land on housing estates and planning and building control (Council owned properties) will be dealt with by the Local Government & Social Care Ombudsman.
- (b) The Council hopes to resolve most complaints internally, but if the complainant is not satisfied with the Stage Two response, or if the Council does not give the complainant a response within a reasonable time, the complainant can ask the Local Government & Social Care Ombudsman to investigate their complaint.
- (c) The Ombudsman may enquire of complainants about what efforts, if any, they have made to resolve their concerns personally and locally with the Council. Subject to the following exceptions, the Ombudsman will not accept a complaint unless it has been through all stages of the Council's complaints procedure:
- complaints about education (except transport);
 - complaints about homelessness;
 - complaints by or on behalf of children and young people;
 - complaints against more than one body;
 - complaints where the relevant Director has exercised discretion not to investigate further (see para. 8.1.1(j));
 - complaints where the Ombudsman has exercised discretion to accept a complaint because he/she has good reason to believe the council would not handle it effectively;
 - where there has been unreasonable delay by the Council in processing a complaint; and
 - although the Ombudsman will no longer routinely contact complainants who have made 'premature' complaints in order to check on progress, there may be complaints where the Ombudsman's Advice Team decides that it is appropriate to do so.

- (d) **Confidential information** – the Ombudsman may be used to keep information confidential. This must be actioned by written notice, under Section 32(3) of the Local Government Act 1974 and posted. This notice cannot be emailed although the Ombudsman can be told by email, that the notice is in the post. The information to be treated as confidential must be identified and watermarked confidential and if possible, kept separate from the rest of the information to be sent to the Ombudsman.

Local Government & Social Care Ombudsman
PO Box 4771
Coventry CV4 0EH

Tel: 0300 061 0614
Fax: 024 7682 0001
Website: <https://www.lgo.org.uk/>

- (e) DCOs will review the outcomes of Ombudsman investigations with a view to identifying patterns of complaints and using the information to improve services and identify training needs.

8.1.4 **STAGE THREE (A HOUSING OMBUDSMAN INVESTIGATION) (for complaints related to local authority landlord functions) -**

- (a) Complaints about the Council's landlord functions are considered by the [Housing Ombudsman](#), rather than the Local Government & Social Care Ombudsman. There may however be some overlap between the jurisdictions of the two Ombudsmen.
- (b) The Housing Ombudsman defines landlord functions as leasehold services, moving to a Council owned property, rent and service charges, occupancy rights, Council owned property condition (repairs and improvements), tenants' behaviour, estate management, complaints handling and compensation.
- (c) If, having exhausted the Corporate Complaints Procedure, a complaint is not resolved to the complainant's satisfaction, the complainant can refer their complaint to the Housing Ombudsman.

Housing Ombudsman Service
P O Box 1484, Unit D, Preston, PR2 0ET
Tel: 0300 111 3000
<https://www.housing-ombudsman.org.uk/>

Email: info@housing-ombudsman.org.uk

9. **EQUALITIES AND DIVERSITY - EQUALITY ACT 2010**

- 9.1 An equal opportunities organisation is one which welcomes and manages diversity, using everyone's talents and abilities, and where

individual contribution is encouraged and differences valued; it is responsive to the needs of its employees and the community it serves. The Council wants to achieve equality of opportunity in all its activities, including the delivery of services to the community, as a direct employer of staff and through the various activities it funds.

- 9.2 The Council is subject to numerous legal duties relating to equalities e.g race, disability, gender etc. The Council recognises and welcomes those duties, which are embraced within the Comprehensive Equality Policy.
- 9.3 Where the Council's functions are carried out by an external provider, the Council remains responsible for meeting the equality duty.
- 9.4 Complaints on discrimination grounds are categorised in this Corporate Complaints Procedure as a 'special case'. Such complaints will normally be dealt with in accordance with this Corporate Complaints Procedure.
- 9.5 The Council will not tolerate any form of discrimination. If, following investigation, there is evidence of discrimination by a Council employee, that employee will be subject to action under the Disciplinary and Dismissal Policy and Procedure.
- 9.6 The Council has a separate procedure for independent recording and monitoring of any external incident reported as a racial incident. For further information, contact Human Resources.
- 9.7 The Council will endeavour to accommodate diversity and Officers must recognise that this may affect the way in which the Council addresses complaints from some members of the community.
- 9.8 The following organisation may provide assistance:

Any form of discrimination: Equality Advisory and Support Service
FPN4431
Tel: 0808 800 0082
www.equalityadvisoryservice.com
- 9.9 The encouragement for complaints to be submitted in writing, must be read in conjunction with the Equality Act 2010 and the requirement on the Council to make reasonable adjustments. An example of this would be in assisting a complainant who has a disability that prevents them from making their complaint in writing. In such cases, the Council may need to transcribe a verbal complaint and then produce a written copy for approval by the complainant or their representative.
- 9.10 The Council should also consider what support should be made available to a complainant, where English is not their first language.

9.11 The Council endeavours to collect equality data, for the purposes of statistical analysis only, so as to monitor compliance with its obligations under the Equality Act 2010, in particular, the Public Sector Equality Duty.

10. **FREEDOM OF INFORMATION (FOI), ENVIRONMENTAL INFORMATION REGULATIONS (EIR), RE-USE OF PUBLIC SECTOR INFORMATION (PSI) AND DATA PROTECTION LEGISLATION³**

10.1 Any written reply expressing dissatisfaction with the Council's response to a valid FOI, EIR, PSI and DPA request, should be treated as a complaint. A complainant may ask for an internal review if they are not content with the Council's decision on release.

10.2 The complainant may be unhappy with the treatment they have received if, for example:

- their application for information was not dealt with within the statutory timescale (20 working days for FOI, EIR and PSI and 30 days for DPA);
- they did not receive all of the information requested;
- they feel that exemptions/exceptions have been wrongly applied;
- they feel that a fee has been wrongly charged.

10.3 **Internal Review (Stage Two of this Corporate Complaints Procedure)**

10.3.1 Stage Two of this Corporate Complaints Procedure will be activated, except that in matters related to FOI, EIR, DPA and PSI, the Information Commissioner is the regulator to complain to following the internal review.

10.3.2 The Stage Two internal review will be based on an assessment of whether the Council has complied with the Freedom of Information Act 2000, Environmental Information Regulations 2004, the Data Protection Act 2018 or the Re-use of Public Sector Information Regulations 2005 and any applicable ICO guidance etc.

10.4 **Complaints against the Stage Two decision**

Freedom of Information, Environmental Information and Data Protection and Public Sector Information

The Information Commissioner
Wycliffe House
Water Lane
Wilmslow
Cheshire SK9 5AF

³Data Protection Act 2018 and UK GDPR

Tel: 0303123 1113
Website: <https://ico.org.uk/>

11. REMEDIES

- 11.1 Remedies for complainants under this Corporate Complaints Procedure will normally take the form of putting things right and an apology. For further guidance on the application of remedies, refer to the Ombudsman's general guidance on remedies at <https://www.lgo.org.uk/> and <https://www.housing-ombudsman.org.uk/>. More detailed information on remedies applying to specific local authority services may be found on the Ombudsman's website at <https://www.lgo.org.uk/>
- 11.2 In exceptional circumstances, it will be appropriate to consider monetary compensation. This may apply where the Council has failed to perform a statutory obligation or its actions could amount to maladministration, particularly where financial loss has occurred. Reference should be made to the Ombudsman's guidance on remedies at <https://www.lgo.org.uk/> and <https://www.housing-ombudsman.org.uk/>.
- 11.3 The relevant Director has delegated authority (Scheme of Delegations to Officers) to pay monetary compensation. Any other token of redress in response to any inconvenience suffered by the complainant will be at the discretion of the relevant Director.

11.4 Redress

The options for redress are any, or a combination, of:

- an apology where appropriate;
- an explanation of the events or policy concerned;
- agreeing to change a decision or action;
- agreeing to put right a mistake or the consequences of a mistake;
- a review of a policy or project, or its implementation, to take into account the complaint;
- improving communication to staff or the public to avoid the same grounds for complaint as previously;
- improving staff training to eliminate the root cause of the complaint.

Please note that an apology, an offer of treatment or other redress, is not itself an admission of negligence or breach of statutory duty (Section 2 Compensation Act 2006).

12. STANDARDS OF SERVICE

All Directorates/Departments will work to set out and publish the nature, levels and standards of service (the Standards) their customers

can expect. Customers can then judge services fairly against these published Standards.

13. **SURVEYS - ALWAYS RESPOND TO NEGATIVE FEEDBACK**

A follow-up strategy is crucial to improving customer satisfaction. Therefore, it is important not to ignore negative survey feedback.

While initially this may seem a bit disconcerting, it is important to consider that negative feedback can be even more valuable than positive feedback.

View negative feedback as a positive. Negative feedback may highlight issues with Directorates/Departments' services and provide valuable insights and ideas on how to innovate and improve customer experiences.

Survey feedback may not necessarily need to be treated as a complaint, though, where possible, the person completing the survey should be made aware of how they can pursue their dissatisfaction through the complaints process (if they wish to).

14. **SOCIAL MEDIA**

Social media should not be used to raise complaints, as platforms are not continuously monitored, especially outside normal working hours. Concerns about something posted on a web or social media page that the Council is responsible for, should be directed to Communications.

15. **ANY DOUBTS?**

If there are any doubts about how to operate this Corporate Complaints Procedure or where there are issues that are not adequately covered, then the matter should be discussed with the Corporate Complaints Officer.

Reviewed by the Standards Committee 29 April 2009 [Min.No.30]	Amended under delegated authority – 20 December 2022
Amended under delegated authority 27.07.2011	Amended under delegated authority – 10 January 2023
Amended under delegated authority 31.01.2012	Amended by Cabinet – July 2024
Amended under delegated authority 1 April 2013	
Amended under delegated authority 30 October 2013	
Amended under delegated authority 13 April 2015	
Amended under delegated authority 25 January 2017	
Amended under delegated authority 6 May 2018	
Amended under delegated authority 30 August 2019	
Amended under delegated authority- 30 June 2020	
Amended under delegated authority – 28 August 2020	
Amended under delegated authority 16 April 2021	
Amended under delegated authority – 30 April 2021	
Amended under delegated authority – 19 May 2022	