

REPORT TO: East Lothian Council

MEETING DATE: 28 August 2012

BY: Executive Director (Support Services)

SUBJECT: New Customer Feedback Procedure

1 PURPOSE

- 1.1 To advise Council of changes to the customer feedback procedure to bring it in line with a new model complaints handling procedure for local authorities, introduced by the Scottish Public Services Ombudsman (SPSO).

2 RECOMMENDATIONS

- 2.1 To approve the new feedback procedure with an implementation date of 1 September 2012.

3 BACKGROUND

- 3.1 On 28 March 2012, the SPSO published a new model complaints handling procedure (CHP) for the local government sector in Scotland under Section 16B of the SPSO Act 2002 (as amended by the Public Service Reform (Scotland) Act 2010).
- 3.2 This procedure applies to all local authorities in Scotland. Each local authority in Scotland is expected to apply the model as soon as possible within the 2012/13 financial year and is required to provide its CHP to the SPSO by 14 September 2012 for approval and to ensure compliance with the model.
- 3.3 As a result, East Lothian Council was required to review and amend its complaints handling process – the ‘feedback procedure’. A new version is attached at Appendix 1.
- 3.4 This procedure replaces all previous complaints procedures within East Lothian Council, with the exception of the statutory Social Work Complaints Procedure (see section 9 of Appendix 1). The social work

complaints procedure is currently the subject of a Scottish Government review.

3.5 Main changes from the previous procedure include:

- Revised definition of a complaint, as well as clarity on what issues cannot be dealt with through the feedback procedure
- 2 stage procedure instead of a 3 stage procedure (removal of Chief Executive review)
- A time limit of 6 months for a member of the public to make a complaint (discretion to extend to 12 months in particular circumstances, as outlined in the procedure)
- Timescale of 5 working days (with a possible extension to 10 working days) for resolving Stage 1 complaints (Frontline Resolution)
- Timescale of 3 working days to acknowledge and 20 working days to respond to Stage 2 complaints (Investigation)
- Specific reporting requirements

3.6 The streamlined procedure will make it more important that complaints are dealt with properly first time round and at source, wherever possible.

3.7 The feedback procedure also actively encourages the recording of compliments to present a balanced view of services.

3.8 Once approved, staff guidance notes and further information will be available on the Intranet and on Nimbus. The new procedure will be publicised internally through Team Talk and e-news and briefings will be provided, including a briefing for elected members.

3.9 New leaflets have been designed for the public and these will be available online, in local area offices, libraries, community centres and other Council buildings. The Council website will also be updated. An easy read version of the leaflet for children and adults with learning difficulties is being developed.

4 POLICY IMPLICATIONS

4.1 A change to the previous feedback procedure.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

- 6.1 Financial - None
- 6.2 Personnel - None
- 6.3 Other - None

7 BACKGROUND PAPERS

- 7.1 Appendix 1: Revised Feedback Procedure
- 7.2 Model CHP for local government in Scotland, available at www.valuingcomplaints.org.uk

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Appendix 1

Feedback Procedure

Foreward

East Lothian Council welcomes comments, complaints and compliments about its services and is committed to learning from individual experiences to improve the services we provide.

Customer complaints give valuable information which can be used to improve customer satisfaction. It is important that complaints are valued and every effort is made to resolve customer concerns locally and quickly; as close to the point of service delivery as possible. Resolving complaints early saves money, creates better customer relations and can also improve how the Council is viewed by the people that use our services.

East Lothian Council's procedure for handling complaints complies with the Model Local Authority Complaints Handling Procedure developed by the Scottish Public Services Ombudsman (SPSO) and local government complaints handling experts (available at www.valuingcomplaints.org.uk). Our procedure aims to 'get it right first time', to be simple to follow and easily understood. Most importantly it will make sure complaints are dealt with impartially and fairly by well-trained and capable staff and that decisions are evidence based. Handled well, complaints can give our customers a form of redress when things go wrong and can also help us continuously improve our services.

This procedure replaces all previous complaints procedures within East Lothian Council, with the exception of the statutory Social Work Complaints Procedure (see section 9).

Angela Leitch, Chief Executive

1. Comments and compliments

1.1 It is important that the Council captures a balanced view of its services so we can see what services are working well, as well as identify those areas that can be improved. Customer comments and compliments received by Local Area Offices, the Contact Centre, online, through feedback forms or by the Customer Feedback Team will automatically be recorded on the Customer Feedback Module on the Lagan Customer Relationship Management (CRM) System.

1.2 Officers should be encouraged to forward any comments or compliments they receive at the frontline to the Customer Feedback Team or the appointed Feedback Coordinator for their service area so they can be logged. A list of Feedback Coordinators is available on the Intranet.

1.3 Data on comments and compliments will be included in Customer Feedback reports and will be fed back to staff via *Team Talk*.

2. What is a complaint?

2.1 East Lothian Council has adopted the following definition of a complaint:

‘..an expression of dissatisfaction by one or more members of the public about the local authority’s action or lack of action, or about the standard of service provided by or on behalf of the local authority.’

For example, a complaint may relate to:

- Failure to provide a service
- Inadequate standard of service
- Dissatisfaction with a Council policy *(it should be noted that making a complaint about an approved Council policy does not mean it will be changed. However, checks can be made to see if the policy has been applied correctly and / or an explanation of why the policy is in place can be provided. Complaints information can also be used to inform any future policy review)*
- Attitude of, or treatment by, a Council employee
- Disagreement with a decision where there is no right of appeal
- Failure to follow appropriate policies / procedure / administrative process

(This list does not cover everything)

2.2 A complaint is **not**:

- A routine first time request for a service or information
- A request for compensation
- Issues that are in court or have already been heard by a court or tribunal
- Disagreement with a decision where a statutory right, or other right of appeal exists e.g. Council Tax, Planning. *(In such cases the customer should be given information on how to appeal).*
- An attempt to reopen a previously concluded complaint or to have a complaint reconsidered when a final decision has been made

2.3 Complaints relating to children that have a Co-ordinated Support Plan can be raised at a tribunal.

2.4 The following cannot be dealt with through this procedure:

- Complaints against Councillors
- A request under the Freedom of Information Act or Data Protection Act
- Insurance claims
- Complaints that have already been investigated and a final decision given

Appendix 1 gives more examples of 'what is not a complaint' and how to direct customers appropriately.

3. Who can make a complaint?

3.1 Anyone who receives, requests or is affected by our services can make a complaint. Sometimes a customer may be unable or reluctant to make a complaint. Complaints made by a Third Party will be accepted as long as consent has been given. Consent forms are available from the Customer Feedback Team.

3.2 If a customer has expressed dissatisfaction then officers should signpost them to the Feedback Procedure and encourage the customer to allow the Council an opportunity to look into the matter and respond to them. Leaflets are available in all area offices, libraries, community centres and other Council buildings and complaints can be submitted online at www.eastlothian.gov.uk. The Customer Feedback Team can be contacted by telephone on 0131 653 5290 or by email at feedback@eastlothian.gov.uk.

3.3 **Anonymous complaints** – We value all complaints. This means we treat all complaints, including anonymous complaints, seriously and will take action to consider them further wherever this is appropriate. Anonymous complaints will generally be considered if there is enough information in the complaint to enable us to make further enquiries. Serious allegations will be appropriately investigated. If not enough information is provided then we may decide not to take any further action. This decision will be taken by either the Customer Feedback Manager, or the relevant service manager. Anonymous complaints should be recorded on CRM by either the Feedback Coordinator for the service area or the Customer Feedback Team.

4. How can a complaint be made?

4.1 A customer can make a complaint by email, online, by telephone, in writing or in person or by having someone complain on their behalf.

4.2 Customers can also make complaints via their local Councillor. If the complaint is complex and cannot be easily resolved at service level, requiring investigation, elected members should consider referring their constituent to the Feedback Procedure so that the complaint and its outcome can be recorded and the customer formally advised of the options open to them if they wish to take the matter further.

5. Time limit for making complaints

5.1 Complaints should be made within **6 months** of the customer first becoming aware of the matter they want to complain about. The Council does have discretion to consider complaints beyond this time (up to a limit of **12 months** of the person becoming aware of their complaint) if there are special circumstances. Examples might include:

- Illness or bereavement
- The matter was brought to the Council's attention earlier but the customer has been waiting for action to be taken before making a complaint
- New information has come to light
- If the decision not to investigate a complaint is likely to lead to a request for an external review

5.2 The Council will only apply discretion to consider a complaint beyond the 12 month time limit in exceptional circumstances.

5.3 To ensure consistency and fairness, the decision whether or not to apply discretion will be taken by the Customer Feedback Team, in conjunction with the relevant Head of Service. When making such a decision, the Scottish Public Services Ombudsman Act 2002 (Section 10(1)) will be taken into account. This sets out the time limit within which a member of the public can normally ask the SPSO to consider complaints.

6. Complaints involving more than one service or organisation

6.1 If a complaint relates to the actions of two or more Council services, then the Customer Feedback Team will take the lead role in co-ordinating one response covering all issues. They will also take responsibility for contacting the customer. It is important the customer has a single point of contact and receives one response.

6.2 If a customer makes a complaint to the local authority about the services of another agency or public service provider, but the local

authority has no involvement, the customer should be advised to directly contact the appropriate organisation.

6.3 Where a complaint relates to a Council service and the service of another agency or public service provider, (for example a housing association or a government department), then the point of complaint relating to the Council must be dealt with through this procedure. The customer should also be signposted to the complaints procedure of the other organisation.

6.4 If enquiries need to be made of an outside agency in relation to the complaint, Data Protection legislation should always be taken into account. The Council's Data Protection and Freedom of Information Compliance Officer can give internal advice. The Information Commissioner also has detailed guidance on data sharing and has issued a data sharing code of practice.

7. The process for handling complaints

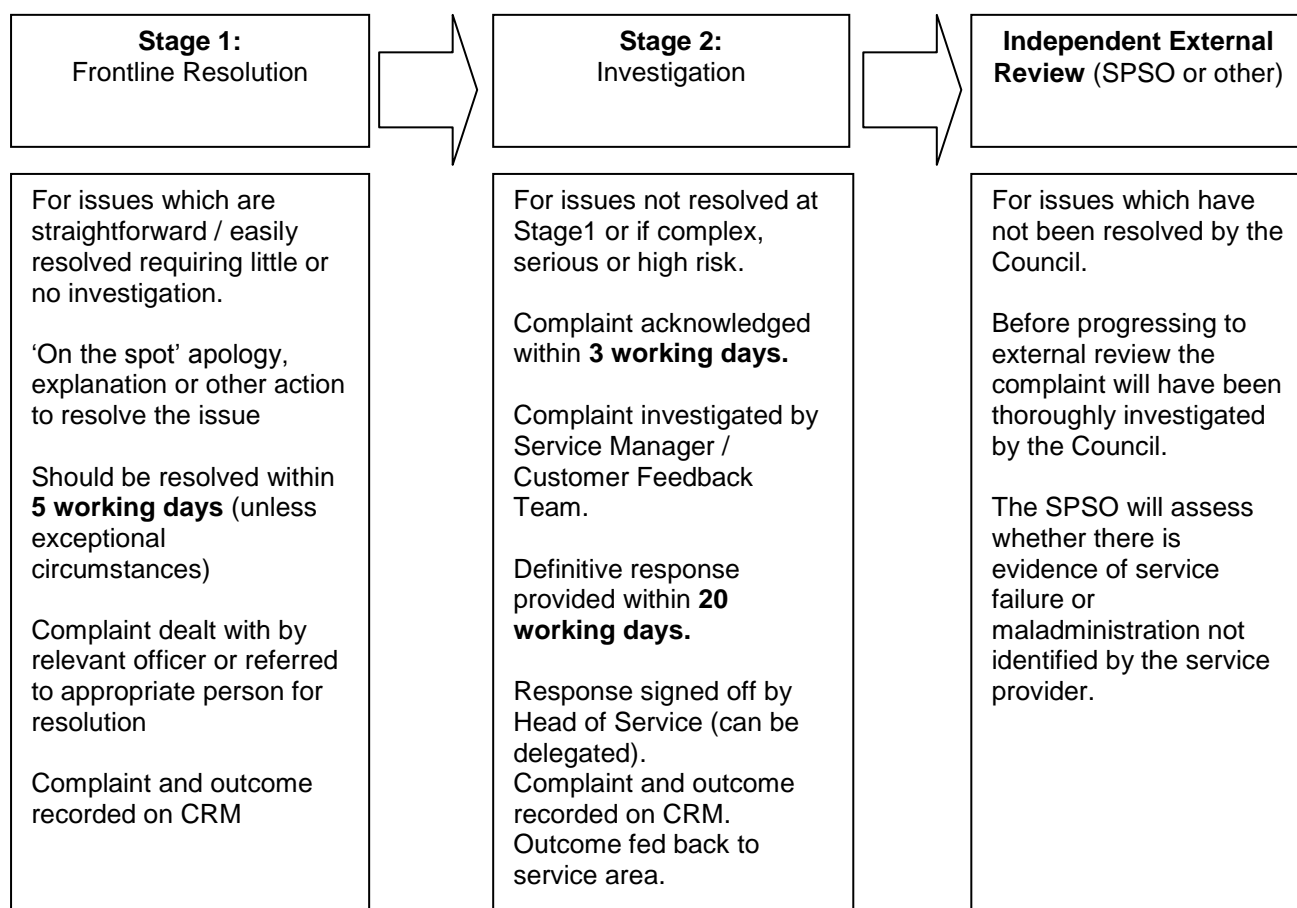
7.1 The Council's Feedback Procedure aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

7.2 It has **2** stages:

Stage 1: Frontline Resolution

Stage 2: Investigation

7.3 Diagram -



8. Social Work Complaints

8.1 The procedure for social work complaints is slightly different from this procedure, as it currently follows specific legislation and guidance. A guidance note on how social work complaints should be dealt with can be found at Appendix 2.

9. Stage 1 - Frontline Resolution.

9.1 Frontline resolution aims to quickly resolve straightforward customer complaints that require little or no investigation. Any member of staff can deal with complaints at this stage.

9.2 The main principle is to seek early resolution, resolving complaints at the earliest opportunity and as close to the point of service delivery as possible. This may mean a face-to-face discussion with the customer, or asking an appropriate member of staff to deal directly with the complaint.

9.3 Whenever a complaint is received frontline resolution should always be considered. If the complaint can be resolved at the frontline then appropriate action should be taken. This might include:

- Providing an 'on-the-spot' apology
- Explaining why a problem occurred and what will be done to stop it happening again
- Providing the required service / information
- Taking appropriate remedial action e.g. cancelling an invoice if a customer has been incorrectly charged

Examples of Stage 1 complaints can be found at Appendix 3.

9.4 **Timescales** - Frontline resolution must be completed within **five working days** from the date the complaint was received, if not sooner. In exceptional circumstances, where there are clear and justifiable reasons for doing so, an extension of no more than five working days may be agreed with the customer. This must only happen when an extension will make it more likely for the complaint to be resolved at the frontline resolution stage.

9.5 All attempts to resolve the complaint at this stage must take no longer than **ten working days** from the date the complaint was received. The customer must be advised of the reasons for the delay and when they can expect to receive a response. The Customer Feedback Team can give advice on the circumstances in which it would be appropriate to agree an extension and the extension should be approved by the relevant service manager.

9.6 It is important that such extensions do not become the norm. If the issues are so complex that they cannot be resolved in five days, it may be more appropriate to escalate the complaint straight to Stage 2 – Investigation.

9.7 If the customer does not agree to the extension but it is unavoidable and reasonable, the relevant service manager can agree to the extension. The customer must be advised about the delay and the reason for the decision to grant the extension should be explained to them.

9.8 Non-working days i.e. weekends, public holidays and days of industrial action where service has been interrupted are not taken into account when measuring performance against timescales.

9.9 **Recording** - Stage 1 complaints received through the Contact Centre, Local Area Offices, online, on Feedback Forms or by the Customer Feedback Team will be logged on CRM and referred back to the relevant officer / service area for action. The outcome of the complaint will also be logged on CRM.

9.10 The Customer Feedback Team, or the Feedback Co-ordinator for the relevant service area should be notified of Stage 1 complaints received directly by a service area so that the complaint can be logged on CRM and the information used to drive service improvement.

9.11 **School complaints** Stage 1 complaints about schools should be dealt with directly by the school concerned. If a meeting is required with the Class or Guidance Teacher, Head Teacher or other senior member of staff and this cannot take place within the 5 working day timescale, then an extension should be agreed. Schools should keep a complaints log. If a complaint is made about bullying, the child and / or parents should also be signposted to Anti-bullying East Lothian (ABEL), which is a good source of advice and information.

9.12 **Closing the complaint** - Advising a customer of the outcome of their Stage 1 complaint does not have to be done in writing, although this may be appropriate on some occasions. A telephone call, email or face-to-face meeting is acceptable as long as a record is kept. The response must address all points of complaint and explain the reasons for the decision reached. The outcome should be recorded on CRM wherever possible.

More guidance on Stage 1 complaints is provided at Appendix 3.

9.13 **Escalating Stage 1 Complaints** – A complaint must be escalated to the investigation stage when:

- frontline resolution was tried but the customer remains dissatisfied and requests an investigation into the complaint. *(This may be immediately on communicating the decision at the frontline stage or could be some time later)*
- the customer refuses to take part in the frontline resolution process
- the issues raised are complex and require detailed investigation
- the complaint relates to serious, high-risk or high-profile issues.

9.14 Care should be taken to identify complaints that might be considered serious, high risk or high profile, as these may require particular action or raise critical issues that requires the direct input of the Head of Service or Executive Director of the service involved. Examples might include complaints that:

- involve a death or terminal illness
- involve serious service failure, for example major delays in providing, or repeated failures to provide, a service
- generate significant and ongoing press interest
- pose a serious risk to local authority operations
- present issues of a highly sensitive nature, for example concerning:
 - immediate homelessness
 - a particularly vulnerable person
 - child protection.

10. Stage 2: Investigation

10.1 Not all complaints are suitable for frontline resolution and not all complaints will be satisfactorily resolved at that stage. Complaints handled at the investigation stage of the complaints handling procedure are typically complex or require a detailed examination. These complaints may already have been considered at the frontline resolution stage, or they may have been identified from the start as needing immediate investigation.

10.2 An investigation aims to establish all the facts relevant to the points made in the complaint and to give the customer a full, objective and proportionate response that represents the Council's final position. Investigations will normally be carried out either by the relevant service manager, the Customer Feedback Team or an officer who has received specific complaint investigation training. Investigation plans should be completed to ensure conclusions are evidence based and all points of complaint have been addressed. These are available on the Intranet or from the Customer Feedback Team.

10.3 **Timescales** - The following deadlines are appropriate to cases at the investigation stage:

- complaints must be acknowledged within **three working days**
- A full response to the complaint should be provided as soon as possible, but no later than **20 working days** from the date the complaint was received for investigation.

Template acknowledgement and response letters are available on the Intranet.

10.4 Non-working days i.e. weekends, public holidays and days of industrial action where service has been interrupted are not taken into account when measuring performance against timescales.

10.5 **Extension to the timescale** - Not all investigations will be able to meet this deadline. For example, some complaints are so complex they require careful consideration and detailed investigation beyond the 20-day limit. However, these would be the exception and every effort should be made to deliver a final response within 20 working days. If there are clear and justifiable reasons for an extension, this should be agreed with the customer and a revised timescale given. If the Customer does not agree, the relevant Head of Service or Customer Feedback Manager can approve an extension, giving clear reasons to the customer. Examples might include:

- Essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff, customers or others but they cannot help because of long-term sickness or leave.
- You cannot obtain further essential information within normal timescales.
- Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.
- The customer has agreed to mediation as a potential route for resolution.

10.6 **Recording** – Stage 2 complaints should be passed to the Customer Feedback Team or Feedback Co-ordinator for the service area for logging on CRM.

10.7 **Responses** – written responses should be given to Stage 2 complaints, unless the customer has given another preferred method of contact. These should be structured in line with the template provided and give a clear outcome e.g. upheld / partially upheld / not upheld. The Customer Feedback Team can offer advice and assistance on complaint responses and will carry out regular quality assurance

checks on final responses.

10.8 Stage 2 complaint responses should be signed by the relevant Head of Service. If this is not possible, this function can be delegated to the Customer Feedback Manager or relevant service manager, as long as the Head of Service has reviewed and is in agreement with the investigation findings and there is a record of this. If a complaint has been identified as high profile or high risk, it may be more appropriate for the response to be signed by the Executive Director responsible for the service area involved.

10.9 Stage 2 responses must include:

- the customer's right to ask SPSO to consider the complaint
- the time limit for doing so, and
- contact details for the SPSO.

10.10 A final copy of the response should be passed to the Customer Feedback Team / Feedback Co-ordinator so that the complaint outcome can be recorded on CRM and a copy of the response attached to the case file.

Further information on dealing with Stage 2 complaints can be found at Appendix 4 and a diagram of the process can be found at Appendix 5.

11. Independent External Review (SPSO)

11.1 Once the investigation stage has been completed, the customer has the right to approach the SPSO if they remain dissatisfied. The SPSO considers complaints from people who remain dissatisfied at the conclusion of this procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way the complaint has been handled by the Council.

11.2 Standard wording for referring a customer to the SPSO can be found on the Intranet and is included in the Stage 2 response template. The SPSO also provides a leaflet, The Ombudsman and your organisation, which can be helpful in deciding how and when to refer someone to the SPSO. This is available at www.spsos.org.uk

11.3 The Customer Feedback Manager is the appointed SPSO liaison officer.

12. The Care Inspectorate

12.1 Local authorities that provide care services must be registered with the Care Inspectorate. Anyone receiving care services from East Lothian Council has the right to complain either directly to the Care Inspectorate or to the Council as service provider.

12.2 Customers may also receive care or support from other agencies under a contract with East Lothian Council. They may direct complaints about these services either to the Council (just like complaints about any local authority service) or directly to the Care Inspectorate.

12.3 Contact Details for the Care Inspectorate can be found on the Council's website and in Feedback Leaflets available from all Local Area Offices, Libraries, Community Centres and other Council buildings.

12.4 If a customer is raising concerns about a care service they should be advised of their right to contact the Care Inspectorate.

13. Confidentiality

13.1 Confidentiality is important in complaints handling. Details of a complaint should only be shared with those people who need to know for the purposes of carrying out a proper investigation, or to respond to an allegation. Access to the complaints module on CRM is limited to those specifically involved in managing and co-ordinating the Customer Feedback Procedure.

13.2 The Council's responsibilities under Data Protection legislation should always be taken into account. The Data Protection and Freedom of Information Compliance Officer can provide internal advice wherever necessary.

13.3 A customer should not be in any way disadvantaged as a result of making a complaint.

13.4 The Information Commissioner has published guidance to organisations on '*Access to information held in complaint files*' (available at www.ico.gov.uk). This should be consulted when dealing with such requests.

14. Complaints about Council employees

14.1 Complaints about staff members should be investigated by the relevant line manager. The staff member should be made aware of the complaint and be given an opportunity to respond. The outcome of the investigation and any learning points should be fed back to the staff member.

14.2 When serious complaints are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is in an equal or more senior position and independent of the situation. The outcome of the investigation should be fed back to

the staff member and the Executive Director of the relevant service, or Chief Executive if the complaint concerns an Executive Director.

14.2 Wherever appropriate, investigating officers should refer to the Council's Disciplinary Procedure.

15. Mediation

15.1 Some complex complaints, or complaints where customers and other interested parties have become entrenched in their position, might require a different approach. Where appropriate, a service manager should consider using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further. Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions. The cost of mediation will be met by the relevant service area.

15.2 The East Lothian Community Mediation Service currently provides mediation services for East Lothian Council and can provide advice on whether a complaint is suitable for mediation.

15.3 If both the service area and customer agree to mediation, revised Stage 2 timescales will need to be agreed.

15.4 **Additional Support Needs** - If a child has additional support needs and a complaint relating to this has been unable to be resolved by the Education Service, then the Additional Support for Learning Act (Scotland) 2004 provides the right to request independent mediation.

16. Managing Unacceptable Behaviour

16.1 People may act out of character in times of trouble or distress. The circumstances leading to a complaint may result in the customer acting in an unacceptable way. Customers who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves may still have a legitimate grievance. All complaints must be treated seriously and properly assessed.

16.2 However, it is recognised that the actions of customers who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards our staff. In such cases, East Lothian Council's Unacceptable Behaviour Policy should be referred to and appropriate action taken, as outlined in the policy.

17. Recording, Reporting, Learning and Publicising

17.1 Wherever possible, Stage 1 and all Stage 2 complaints should be recorded on the Customer Feedback Module on CRM. Information to be captured includes:

- the customer's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the service the complaint refers to
- the date the complaint was closed at the frontline resolution stage (where appropriate)
- the date the complaint was escalated to the investigation stage (where appropriate)
- action taken at the investigation stage (where appropriate)
- the date the complaint was closed at the investigation stage (where appropriate)
- the outcome of the complaint at each stage
- the underlying cause of the complaint and any remedial action taken.

17.2 CRM provides a structured system for recording complaints, their outcomes and any resulting action. This data is analysed to identify any trends and to ensure any service failures are identified and appropriate action taken.

17.3 The Customer Feedback Team will be responsible for maintaining a log of any recommendations made following the outcome of a complaints investigation and any service improvements undertaken as a result.

17.4 6 monthly customer feedback reports will be presented to the Policy Performance Review Committee (PPRC). These reports will include performance statistics showing the volumes and types of complaints and key performance details, e.g. acknowledgement and response times and the stage at which the complaints were resolved, as well as information on service improvements. These reports will be publicly available on the Council's website. In addition, quarterly statistics and relevant case studies will be circulated to the Council Management Team.

17.5 In order to make sure there is learning from complaints, the complaint handler should, at the earliest opportunity, make sure the customer and relevant staff members understand the findings of the investigation and any recommendations made.

17.6 Where the need for a service improvement has been identified:

- the action needed to improve services must be authorised
- an officer (or team) should be designated the 'owner' of the issue, with responsibility for ensuring the action is taken
- a target date must be set for the action to be taken
- the designated individual must follow up to ensure that the action is taken within the agreed timescale
- where appropriate, performance in the service area should be monitored to ensure that the issue has been resolved

18. Supporting the customer

18.1 All members of the community have the right to equal access to the feedback procedure and to make a complaint. Customers who do not have English as a first language may need help with interpretation and translation services, and other customers may have specific needs.

18.2 Any customer making a complaint is welcome to bring along a person to support them at any meetings being held in relation to the complaint.

18.3 Versions of this procedure are available on request on audiotape, in Braille, large print or different languages through East Lothian Council's Translation and Interpretation Service.

18.3 Appropriate help should be provided to customers if they are having difficulty in making a comment, complaint or compliment. The Customer Feedback Team can offer advice on what supports are available.

Version 1: July 2012

Appendix 1 - What is 'not' a complaint

A concern may not necessarily be a complaint. For example, a customer might make a routine first-time request for a service. This is not a complaint, but the issue may escalate into a complaint if it is not handled effectively and the customer has to keep on asking for service.

A customer may also be concerned about various local authority decisions. These decisions may have their own specific review or appeal procedures, and, where appropriate, customers must be directed to the relevant procedure. These are some examples of the types of issues or concerns that should not be handled through the feedback procedure. This is not a full list, and the best route for resolution should be based on the individual case.

Example 1: Planning

Customers may express dissatisfaction about a refusal to grant planning or other permission, a condition imposed on a grant of planning permission or other permission or the service of an enforcement notice.

In cases where there has been a refusal to grant planning (or other) permission, a condition(s) imposed on a grant of planning (or other) permission or enforcement notice actions taken and where the decision was taken by the Planning Committee or full Council, the applicant/person to whom the notice is served has a right of appeal to the Scottish Ministers. Appeals are usually, but not always, decided by a Reporter from the Directorate of Planning and Environmental Appeals and can be considered on the basis of written submissions or by a hearing or public inquiry. The Reporter appointed to consider the appeal will manage the whole process and consider how to gather enough information to make a decision.

Applicants can ask the Local Review Body (a Committee of the Council) to review decisions made by the Council's Appointed Officer under the Council's Scheme of Delegation, where the Appointed Officer has either:

- a) Refused an application for planning permission; or
- b) Approved an application for planning permission subject to condition(s).

An applicant may also seek a review by the Local Review Body in respect of a deemed refusal i.e. whereby the Appointed Officer has failed to give the applicant their decision within a period of two months after the validation date (four months if the development requires an environmental impact assessment).

Customers who are dissatisfied with a planning decision, and who have a right of review or appeal are directed appropriately through an information note on the decision notice or enforcement notice. However, some complaints about planning matters are from third parties such as neighbours. These customers do not have a right of review or appeal. These complaints should, therefore, be considered through the Feedback Procedure. In such cases, the

purpose of the Feedback Procedure is to look at the procedural and administrative aspects connected with a planning application or other planning matter; it is not to review planning decisions that have followed due process or to revisit objections to an application.

Example 2: Benefits

A customer may be dissatisfied or disagree with a decision about their housing or council tax benefit claim. This is not a complaint. The customer has the right to ask for a review of the decision. If they remain dissatisfied at the outcome of the review or reconsideration of their claim, they can also appeal against the decision to an independent appeal tribunal and should be advised this option is open to them.

Example 3: Claims for compensation

A customer may seek compensation if they consider the Council to be liable. This includes issues such as personal injury or loss of or damage to property. Claims for compensation are not complaints and should not be handled through the feedback procedure. However, a customer may want to complain about the matter leading to their request for compensation, for example workmen damaging their home, or the condition of a public road causing damage to a motor vehicle. These matters should be dealt with as complaints, but the request for compensation should be dealt with separately. If the complaint action is suspended while the claim is being considered, the customer should be advised accordingly.

Complaints about how the Council has handled a claim for compensation should be dealt with through the feedback procedure.

Example 4: Licence decisions

Councils are responsible for issuing various licences, including public entertainment, HMO (houses in multiple occupation), liquor and taxi licences. These have their own legal redress. Customers dissatisfied with these decisions should pursue the matter through the correct procedure for the type of licence they want and be advised accordingly.

Complaints about how a licence application has been processed can be dealt with through the feedback procedure.

Example 5: School exclusions and placing requests

Decisions on appeals against a pupil's exclusion from school or a refusal of a school placing request are made by Committee. Once the Committee has made a decision, the customer cannot use the complaints process to continue their case.

Example 6: School exam results

Schools have devolved authority to offer examinations on the awarding body's behalf. If a customer is dissatisfied with the result of an exam, the school should refer it to the awarding body.

Remember that although there may be an alternative form of redress for the customer it should carefully be considered whether or not a customer's representations should be managed within the complaints handling procedure. Dissatisfaction with certain local authority decisions may simply require an explanation and directing to the correct route for resolution. If, however, a customer says they are dissatisfied with the administrative process followed in reaching a decision, this should be dealt with as a complaint through the feedback procedure. An example may be a complaint from a customer who is dissatisfied with a decision and alleges that the Council failed to follow or apply the appropriate guidance in reaching that decision.

Appendix 2 - Guidance Notes on Social Work Complaints Procedure

Introduction

East Lothian Council welcomes comments, complaints and compliments about its services and has a **feedback procedure** (and associated literature) so that members of the public can have their say. This information helps the Council gain an accurate picture of the level and quality of its services from the perspective of the user and also helps identify areas for improvement.

The law also requires the Council to have a process for dealing with complaints about social care issues. Section 5B of the Social Work (Scotland) Act 1968, Section 52 of the NHS Community Care Act 1990 and the Social Work (Representations Procedure) (Scotland) Directions 1996 requires every Local Authority Social Work Service to develop and implement a complaints procedure. Annual reports on Social Work complaints must also be produced.

Recording Feedback

Very often, people who make comments about our services do so in an informal way, while they are using a service or talking to a member of staff. It is important that we try and record as much of this feedback as possible and staff should have ready access to the Social Work Feedback Form and be encouraged to hand these out to service users.

If people want to make positive comments or say 'thank you', they should either be asked to complete a feedback form or the staff member should take a note. All positive feedback about social work services should be sent to the Customer Feedback Manager so that it can be formally recorded.

Regular reports on all feedback received will be circulated to the Council Management Team. An Annual Report will be submitted to Cabinet.

What is a complaint?

A complaint is defined as "an expression of dissatisfaction".

A person can make a complaint if they feel the Council (or an individual member of staff) has:

- Done something wrong
- Not delivered a service it should have
- Acted unfairly or been unhelpful
- Delivered a poor service
- Delayed in providing a service

A person can also make a complaint on behalf of someone else. For example, a parent, carer or advocate may want to make a complaint on behalf of a relative or client. Formal consent will usually be required in such cases, unless the person has legal guardianship.

To make a complaint under the statutory SW complaints procedure a person should be receiving social work services or believe that they are entitled to receive social work services.

In terms of Children's Services, complaints can be made from a child, parents, anyone with parental responsibility, any carer (including foster carers) or any person who has legitimate interest in the child's welfare.

What is not a complaint?

- A first request for a service or information
- Where a person has a legal right of appeal
- Where legal action is in progress

Social Work Complaints

The Council operates a three step internal process for dealing with social work complaints:

Stage 1 (early resolution)

The person should directly contact the service involved or member of staff who has been dealing with them. They will try to sort out the problem at source, as quickly as possible.

Stage 1 complaints received through the Community Access Team in the Contact Centre, on feedback leaflets or through the Customer Feedback Team will be recorded on CRM.

Stage 2 (formal investigation)

If the person is still unhappy they can make a formal complaint to the Customer Feedback Manager, who will then identify an appropriate senior officer for investigation.

If staff have concerns that they have been unable to resolve a complaint at Stage 1, they should refer the person to the next stage of the procedure and advise them how they can progress their complaint.

Any complaint identified as requiring investigation and response should be passed to the Customer Feedback Team straight away so it can be recorded on CRM and the information used to drive service improvement.

At Stage 2 an investigation plan will be completed. Each point of complaint should be investigated and conclusions must be evidence based. Template response letters are available.

It should be remembered that meeting with, or telephoning, a complainant can be useful in identifying the root cause of the complaint and can often lead to a resolution.

The person must receive an acknowledgement of their complaint within **5 working days** and a response within **28 days (statutory timescale)**. If it will take longer than this to deal with the complaint then the person must be contacted.

The Customer Feedback Team will take primary responsibility for acknowledging and responding to Stage 2 complaints, however service managers and Team Leaders will also be required to respond to complaints. Appropriate training can be provided if necessary.

Responses will be approved by either the Service Manager or Head of Service / Executive Director. This will be dependent on the nature and seriousness of the complaint and the seniority of staff involved in the earlier stages of the complaint.

Stage 3 (independent review)

If the person is unhappy with the outcome of the formal investigation then they have a legal right to ask for their complaint to be heard by an **independent Complaints Review Committee**. The Customer Feedback Manager can provide more information on this process.

How should we deal with complaints?

We will make sure that:

- Complaint are listened to seriously
- We respect other people's points of view
- Complaints are resolved quickly, at source, wherever possible
- Every point of the complaint is looked into and answered
- Any investigations are carried out objectively and the conclusions are evidence-based
- Our answer to the complaint is clear and understood by the complainant
- We take appropriate action to resolve the complaint. E.g. providing an explanation, taking action to fix a problem or offering an apology if necessary

Confidentiality

Complaints will be kept confidential and details will only be given to those people who need to know for the purpose of investigating the complaint.

We can accept anonymous complaints, but this could limit any investigation.

Complaints about service providers

If a complaint is received about an agency providing a service on the Council's behalf, an opportunity should be given for the agency to address the concerns raised through their own complaints procedure. The agency should be asked to inform the Council of the outcome of the complaint and any actions taken for contract monitoring purposes. If the client does not want to directly contact the agency concerned, then it may be appropriate for the Council to submit the complaint on their behalf.

Other Organisations

If the person remains dissatisfied with how the Council has handled their complaint then they have a legal right to ask the **Scottish Public Services Ombudsman (SPSO)** to look into the matter. This must usually be done within 12 months. The SPSO will only usually investigate complaints that have completed the Council's procedure.

SPSO

4 Melville Street
Edinburgh

EH3 7NS

Tel: 0800 377 7330

Email: ask@spsso.org.uk Web: www.spsso.org.uk

Complaints about regulated care services can also be made directly to **The Care Inspectorate**. Clients should be advised of their right to complaint directly to the Care Inspectorate.

These include:

- Care Homes for elderly people
- Day Care facilities, including care at home
- Residential Care for children and young adults
- Secure accommodation for young people

The Care Inspectorate can be contacted at:

Compass House
11 Riverside Drive
Dundee

DD1 4NY

Tel: 0845 600 9527

Email: enquiries@careinspectorate.com 

Web: www.careinspectorate.com

South East Regional Office
Stuart House, Eskmill
Musselburgh

EH21 7PB

Tel: 0131 653 4100

Fax: 0131 653 4100

Appendix 3– Examples of Stage 1 Complaints

The following table give examples of complaints that should be dealt with at the frontline stage, and suggests possible actions to achieve resolution.

Complaint	Possible actions to achieve resolution
The customer complains that her council tax direct debit has been set up wrongly.	Apologise to the customer and resolve the issue by properly updating the direct debit details.
The customer has provided evidence to verify his claim for benefits, but his case records have not been updated with this information.	<ul style="list-style-type: none"> • Apologise to the customer. • Update the customer's benefit record to record receipt of evidence. • Check that the benefit award is corrected from the appropriate date.
The customer complains that an operative did not attend to carry out a housing repair as agreed.	<ul style="list-style-type: none"> • Speak to the operative or the service manager to explain the customer's complaint and to agree how to resolve the issue, for example by arranging a new time and date to do the repair. • Explain the reasons for the failed appointment and apologise to the customer.
The customer complains that the quality of a repair is not satisfactory.	<ul style="list-style-type: none"> • Ask the service area to examine the repair to assess whether or not it is acceptable. • If appropriate, agree that more work should be carried out to resolve the matter. • Explain and apologise to the customer if necessary, or explain why the repair is considered to be appropriate. • Obtain a report from the service

Complaint	Possible actions to achieve resolution
	<p>or contractor to confirm that the repair is now complete.</p> <ul style="list-style-type: none"> • Feed back the lessons learned from the complaint into a service improvement plan.
<p>The customer complains that a road is not on a winter gritting route so it has not been gritted.</p>	<ul style="list-style-type: none"> • Find out which roads are on the agreed gritting routes, and explain this route to the customer. • Use the customer's concerns to inform the Council's future approach to gritting roads.
<p>A customer complains that her brown bin was not collected</p>	<ul style="list-style-type: none"> • Check whether the appropriate route was followed, if not provide an explanation why • Apologise to the customer and arrange for the bin to be uplifted.

What to do when receiving a Stage 1 complaint

- 1 On receiving a complaint, first decide whether the issue can indeed be defined as a complaint. The customer may express dissatisfaction about more than one issue. This may mean one element is treated as a complaint, but the customer needs to be directed to pursue another issue through an alternative route.
- 2 If frontline resolution is appropriate, four key questions should be considered:
 - What exactly is the customer's complaint (or complaints)?
 - What does the customer want to achieve by complaining?
 - Can I achieve this, or explain why not?
 - If I cannot resolve this, who can help?

What exactly is the customer's complaint (or complaints)?

It is important to be clear about exactly what the customer is complaining of. You may need to ask the customer for more information and probe further to get a full picture.

What does the customer want to achieve by complaining?

At the outset, clarify the outcome the customer wants. Of course, the customer may not be clear about this, and you may need to probe further to find out what they expect, and whether they can be satisfied.

Can I achieve this, or explain why not?

If you can achieve the expected outcome by providing an on-the-spot apology or explain why you cannot achieve it, you should do so.

The SPSO provides guidance on apology that can be accessed at www.spsso.org.uk

The customer may expect more than the Council can provide. If so, you must tell them as soon as possible. An example would be where the customer is so dissatisfied with a kitchen refurbishment that they demand a new kitchen, but the Council is only willing to repair any broken units.

If it is clear the desired outcome cannot be achieved, a compromise cannot be found or the customer remains unhappy, then the complaint should be referred to Stage 2.

Appendix 4 – Guidance on Stage 2 Investigations

What to do when you receive a complaint for investigation

It is important to be clear from the start of the investigation stage exactly what is being investigated, and to ensure that both the customer and the service understand the investigation's scope.

An investigation plan should be completed at this stage. This identifies each individual point of complaint and will ask specific questions of the service area, asking them to provide and specify appropriate evidence in support of their position. The use of investigation plans will ensure that conclusions are evidence based. It also helps to provide an audit trail of the scope and nature of the investigation carried out, as well as who was interviewed as part of the investigation.

Investigation plans are available on the Intranet. The Customer Feedback Team is also on hand to provide independent advice on any aspect of a complaints investigation. They can also arrange for appropriate training in complaint investigation skills.

It may be helpful to discuss and confirm the points of complaint with the customer at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint with the customer, three key questions should be considered:

1. What specifically is the customer's complaint or complaints?
2. What does the customer want to achieve by complaining?
3. Are the customer's expectations realistic and achievable?

It may be that the customer expects more than the Council can provide. If so, you must make this clear to the customer as soon as possible. Managing expectations is key.

Where possible you should also clarify what additional information you will need to investigate the complaint. The customer may need to provide more evidence to help reach a decision.

If the investigation stage follows attempted frontline resolution, a request should be made by the officer responsible for the investigation for all case notes and associated information to be handed over.

Investigation officers should be encouraged to meet with the complainant, wherever appropriate, to explain the outcome of an investigation. Often a face-to-face meeting explaining what actions have been taken to investigate the complaint (and to put things right where necessary) can help to demonstrate the Council has taken the complaint seriously, as well as provide the customer with closure.

Stage 2 complaint responses should be set out in line with the template

provided. They should clearly outline the complaint, the nature and outcome of the investigation and the conclusion reached. It should be easily understood, written in plain English and contain the necessary referral to the SPSO.

At the earliest opportunity after the closure of the complaint, the complaint investigator should always make sure the customer and staff of the service area involved understand the findings of the investigation and any recommendations made.

The outcome of the investigation must be fed back to either the Feedback Co-ordinator for the service area or the Customer Feedback Team so that the information can be recorded on CRM for reporting purposes.

Appendix 5 - Procedural Diagram

