

## COPELAND BOROUGH COUNCIL

### COMMENTS, COMPLIMENTS AND COMPLAINTS PROCEDURE

#### INTRODUCTION

This procedure reflects the Council's commitment to ensure all departments deliver a consistent approach in responding to and learning from our customers in order to deliver excellent customer services.

#### COMMENTS & COMPLIMENTS

Comments and compliments will be recorded on the monthly monitoring sheet, actioned and responded to when applicable. Details will be forwarded to Customer Services for monitoring purposes.

#### COMPLAINTS

##### What is a complaint?

A complaint is an expression of dissatisfaction, however made about the standard of service, actions or lack of actions by the Council or its staff affecting an individual customer or group of customers.

A complaint can be made in person, by fax, by telephone, by e-mail or via the Council's website.

This procedure does not cover the following:

- (i) Complaints by Council employees or former employees about employment matters - separate grievance procedures exist for these purposes.
- (ii) Complaints about the conduct of Councillors – for the reasons explained on page 4.
- (iii) Complaints by Councillors in their capacity as Councillors rather than service users.
- (iv) Matters in which the complainant has a statutory right of appeal, or other statutory redress.
- (v) Allegations of financial impropriety or of criminal wrongdoing, which, if made, will always be referred to the Council's internal audit section, or the police, as appropriate.
- (vi) Anonymous complaints.

(vii) Repeated complaints where the original complaint had been investigated, considered and responded to appropriately at each stage of the procedure, and no new element to the complaint has been introduced, or complaints about complaints.

(viii) Initial Requests for a service.

(ix) Initial Requests for information or explanation of Council policy or practice

### **Who can complain?**

Anyone receiving or with a right to receive a service from the Council, including anyone acting for those unable to complain personally.

### **How to complain?**

Complaints can be made in person, by fax by telephone or by e-mail. Complaints do not have to be in writing, but a full accurate written record will be made.

### **Stages of the Procedure**

All complaints received will be passed to and dealt with by the Service Manager, who will acknowledge receipt and record the complaint within 3 working days. Unless the complaint is about a Service Manager, in which case it should be passed directly to the Head of Service.

The Service Manager will attempt to resolve the complaint informally. If the complaint is resolved and the complainant is satisfied then the complaint can be closed. The Service Manager will make a record on the monitoring sheet, of the complaint, response, and lessons learnt which will be forwarded on a monthly basis to the Customer Services Manager for monitoring purposes.

However, if the complainant remains dissatisfied, and makes further representation to the Council, the complaint should be passed to the Head of Service for Stage 1 investigation. The Head of Service must have had no personal contact with the complainant for the initial investigation and response.

If the complainant is claiming financial loss, damage or injury, then the Service Manager must also send a copy of the complaint to the relevant Senior Accountancy Assistant (Insurance).

**Stage 1** On receipt of the complaint an acknowledgement should be sent within 3 working days. The Head Of Service must send a substantive written response (either final response or progress report) to the complainant within 10 working days of receiving the complaint.

This should be recorded on the monthly monitoring sheet.

**Stage II** If the complainant is not satisfied with the Stage 1 response, the complainant must inform the Customer Relations Officer, within three weeks of receiving the Stage 1 response. The Customer Relations Officer will record and monitor the complaint from this point.

The Chief Executive or a Director has the authority to determine whether satisfactory grounds have been given and whether the complainant shall then pass on to the next stage of the procedure. The Chief Executive or a Director will normally have five working days to reach a decision. If at any time new issues are introduced then this will be regarded as a new complaint.

If the complainant has given full reasons to the satisfaction of the Chief Executive or a Director then the Customer Relations Officer should refer the complaint to an Independent Investigating Officer from outside the Business Unit where the complaint originated. The Service Manager should ensure that all paperwork concerning the complaint is passed on to the Independent Investigating Officer. The Independent Investigating Officer will normally have 10 days to respond to the complainant. A copy of the response will be sent to the Customer Relations Officer.

If the Chief Executive or a Director is not satisfied that the complainant has satisfactory grounds to move on to the next stage then the complainant should be given details about their rights to complain to the Local Government Ombudsman.

**Stage III** If the complainant is not satisfied with the Independent Investigating Officers response, the complainant can, within 3 weeks of receiving the response, request a hearing by the Appeals Panel. However, grounds for being dissatisfied must be clearly stated and must be relevant to the complaint. The Chief Executive or a Director shall have authority to determine whether satisfactory grounds have been given and whether the appeal shall pass on to the next stage of the procedure. If at any time new issues are introduced then this will be regarded as a new complaint.

If the Chief Executive or Director gives authority for the complaint to be passed on to the Appeals Panel then the Appeals Panel must meet within 3 months to consider the complaint and hear the views of the complainant and officers involved. The Appeals Panel is the final stage of the Council's Complaint Procedure. A copy of any correspondence will be sent to the Customer Relations Officer.

**Stage IV** If the complainant is not satisfied with the Appeals Panel's response then the complainants will be given information about his / her rights to complain to the Local Government Ombudsman.

If Officers are unable to conduct their investigations within the time scales allowed, they will contact the complainant with an interim response, telling

them when a final response will be given and explaining the reason for the delay.

### **Complaints about Councillors**

The conduct of Councillors is regulated by the Council's Code of Conduct for Members, and complaints by anyone who is concerned that a Councillor has breached this code should be directed to:

The Standards Board for England,  
1<sup>st</sup> Floor Cottons Centre,  
Cottons Lane,  
London  
SE1 2QG

Tel: 020 7378 5000

Fax: 020 7378 5001

e-mail: [newcomplaints@standardsboard.co.uk](mailto:newcomplaints@standardsboard.co.uk)

### **Complaints about the Chief Executive, Directors or Heads of Service**

Complaints about Heads of Service should be addressed to the Chief Executive.

Complaints relating to the Chief Executive/ Directors should be addressed to the Leader of the Council, care of the Head of Legal and Democratic Services, who will then carry out an investigation.

### **Helping the Council to Improve its Services**

Although the primary objective of the complaints system is to provide an effective means for customers to make complaints and have them resolved, another very important objective is to improve services and service delivery. Therefore it is important that the outcome of any investigation in which mistakes or problems are identified are reported to the relevant department so that appropriate action can be taken to avoid a recurrence.

The Customer Services Manager will also send regular reports on complaints received and outcomes to the Scrutiny Committee. This feedback can be a significant element in the Council's quality assurance system.

### **What kind of remedies are available if a complaint is upheld?**

Where a complaint is found to be justified, the Council will, as far as possible, take remedial action to put the complainant in the position he or she would have been in if things had not gone wrong. An apology will always be made. In some cases it may be possible to provide the complainant with a service which he or she is entitled to receive, but has not received, thus giving rise to the complaint. In others, a change in procedures to prevent future difficulties for the individual complainant, or for customers in general, may be appropriate.

## **Guidance on Compensation**

There may be some circumstances where the complainant has sustained financial loss, damage or injury and the Council may wish to consider the question of financial compensation.

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

(a) Where specific financial losses have been incurred and the Council has a legal liability to compensate this will be dealt with under Public Liability Insurance. If there is no legal liability to compensate the Council may wish to consider granting a nominal contribution towards the complainant's losses.

(b) Where devaluation of property is alleged, any legal liability to compensate will be dealt with under Public Liability Insurance. If there is no legal liability to compensate the Council may wish to consider granting a nominal contribution towards any difference in value arising from the action complained of.

An independent valuation (for example from the District Valuer) could be obtained as evidence of devaluation.

(c) Where a complainant has had to spend an unreasonable or significant amount of time in pursuing the matter a payment in recognition of "time and trouble" may be appropriate.

(d) If exceptional worry, distress or inconvenience has been caused by the events consideration could be given to a payment in recognition of those factors.

## **Delegated Authority to Grant Compensation**

Service Managers and Investigating Officers have the authority to make discretionary compensation payments of up to £250. The Appeals Panel has the authority to make discretionary payments up to a maximum as set out in the terms of reference of the Appeals Panel, currently £1000. All other proposed compensation payments beyond the limits set out in the terms of reference of the Appeals Panel require approval of the Executive.

All compensation payments will be funded from the trading account of the business unit where the complaint originated.

## **Powers to Grant Compensation**

Where a Council decides to pay compensation to a complainant following an adverse report by the Ombudsman, there is specific statutory authority to do so in Section 31(3) of The Local Government Act 1974. Section 31(3) was amended in 1989 to give specific statutory power.

Where a Council decides to pay compensation to a complainant following its own complaint procedure there is no specific statutory power to pay compensation. Powers which might be available exist in Sections 111 and 137 of The Local Government Act 1972. Whether an Officer, the Appeals Panel or the Executive is considering a grant of compensation the statutory powers to make the grant should be identified and legal advice sought, especially if the amount of compensation is significant. In most cases compensation will be related to one or more functions of the Local Authority and there will be no problem.

- 7.73 To authorise the service of requisitions for information as to interests in land or property where necessary in relation to the exercise of any functions of the Council.
- 7.74 To exercise the following functions in connection with Development Control Scheme:
- 7.75 To determine applications in the following categories:-
- (a) "Household" developments e.g. extensions; LPG tanks, satellite dishes etc.
  - (b) Minor operations e.g. erection of walls and fences; construction of vehicular accesses
  - (c) Change of use
  - (d) Temporary building and uses e.g. pigeon lofts; stables; garages etc.
  - (e) Agricultural building operations
  - (f) Minor residential development viz not more than 5 dwellings or on land not exceeding 0.4 ha (1 acre) where such development is in accordance with Local Plan policies
  - (g) Minor commercial development viz buildings not exceeding 465m<sup>2</sup> (5000ft<sup>2</sup>) or on land not exceeding 0.4ha (1 acre) where such development is in accordance with Local Plan policies
  - (h) Reserved matters viz following the grant of outline planning permission
  - (i) Advertisement
  - (j) Notice of intention to carry out development in relation to agriculture and telecommunications
  - (k) Overhead power lines
  - (l) Listed building consent
  - (m) Conservation area consent
  - (n) Temporary buildings/structures and renewals of temporary planning permissions within the Sellafield site
- 7.76 To determine applications submitted under section 65 of the Town and Country Planning Act 1990 (whether planning permission is necessary).
- 7.77 To submit comments to the Lake District National Park Authority on applications which would otherwise be outside the 28 days consultation period, and on those applications which the Authority has delegated to its officers for determination.
- 7.78 To determine applications to fell, lop, top carry out other minor works to trees subject to Tree Preservation Order or within a Conservation Area.

- 7.79 To approve or disapprove any of the following matters when reserved, or made the subject of conditions in planning consent:-
- (a) materials to be used externally on buildings
  - (b) landscaping and tree planting proposals and tree replacements
  - (c) minor alterations in the siting of development
  - (d) minor modifications to plans or previously approved material
  - (e) provision of vehicular access
  - (f) construction of finish of boundary walls and fences
  - (g) construction to finish of parking areas

- 7.80 To make orders for stopping – up and diversion of footpaths and bridleways in accordance with the granting of planning permission under the provisions of sector 257 of the Town and Country Planning Act 1990

Applications to be referred to the Planning Panel for determination in the following circumstances:-

- (i) where a Member asks for the application to be referred to the Panel for decision. Such a request should be made to the Head of Regeneration, in writing, within 21 days of the publication of the weekly list of applications received. Any such request may also be withdrawn, in writing, by the Member at any time prior to the publication of the agenda in which the proposal is included.
- (ii) where there is an unresolved objection from any source received within a period of 21 days from the date of notification of the application (other than (a) where written objections have been received solely on grounds which are not material to determination of planning applications; or (b) where written objections have been received based on material planning considerations but where such considerations are not deemed to warrant refusal of the application having due regard to relevant policies of the extant development plan and all other material planning considerations.)
- (iii) ALL applications relating to proposed developments which are departures from national planning policy guidelines and/or Council's adopted Local Plan Policies will be referred to the panel for determination.
- (iv) ALL applications recommended for refusal will be placed before the Panel for decision.
- (v) where the Officers are of the view that the application or matter should be referred to the panel for determination.