

# Crawley Borough Council complaints procedure

Updated: August 2020

We aim to provide excellent services to all of our customers. If we get something wrong, we want to try to put it right quickly and learn from the mistake to help improve our services in the future.

## Definitions

### What is a complaint?

For the purposes of this policy, and in line with the definition provided by the Local Government & Social Care & the Housing Ombudsman Services, a complaint is defined as an expression of dissatisfaction, however expressed, about a council service (whether that service is provided directly by the council or by a contractor or partner), which affects an individual or group of individuals that requires a response.

A complaint may be about:

- Where we, or our contractors, have failed to deliver a service to an acceptable standard
- There has been a delay in providing a service, or we have not kept you informed of progress when providing a service
- We have not rectified or acted upon a request for a service to be provided
- Our staff or contractors have behaved in an unfair, discourteous or discriminatory manner

### What wouldn't be considered as a complaint?

There are some instances where an expression of dissatisfaction will not be treated as a complaint under the council's complaints policy. Examples of these are:

- Where there is an existing right of appeal, either within the Council or externally (e.g. Benefits Tribunal, Planning Inquiry). It is important to note that any fault in the way the Council acted (which wouldn't be considered as part of a formal appeal or review process) will be recorded and responded to as a complaint
- Where the Council has taken legal action that it has a duty to perform, such as recovery of Council Tax or Enforcement action
- A request for compensation only
- When there is a formal legal claim against the Council or legal dispute
- When the matter is being dealt with through the Council's Insurers
- Disagreement with a Council policy or legislation decision that the Council is applying when delivering a service
- An attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision
- A request for a service to be provided (for example reporting a missed refuse collection or a tree which needs cutting back; these tell us about work we need to do but may subsequently be treated as a complaint if we don't deal with the request)

### How do I complain?

Our aim is to sort as many complaints as possible at the first point of contact. If you are dissatisfied with the service you have received, you should in the first instance contact the relevant department who may be able to resolve the problem quickly without having to use the formal complaints procedure.

However, there may be cases that require further investigation and the involvement of other officers to find out what went wrong. We will deal with these through our [formal complaints process](#). If you wish to make a formal complaint, complete our [Feedback form](#).

When making your complaint, please tell us:

- Your full name and address
- As much as you can about the complaint
- What has gone wrong
- How you want us to resolve the matter

The complaints procedure also covers complaints made via your [local Councillor](#) or Member of Parliament.

## How we will respond to complaints

For issues which are straightforward, can be easily resolved or require little or no investigation, we will deal with the complaint as a front line resolution complaint. This will provide a better experience for the customer in resolving their issue more quickly. Details of any action taken and complaint outcome will be recorded to be used for service improvements. However, it should be noted that if any issues relate to a more serious issue (e.g. staff behaviour, hate incidents or a more serious service failure), the formal complaint process would apply to enable a full investigation to take place.

Our formal complaints policy is based on a two stage process, however the Council reserves the right to adopt a one stage response in appropriate cases. Examples of this would include cases where there has already been a long period of correspondence or the nature of the complaint is such that an internal review of the complaint would not change the original outcome or decision.

Upon receipt of the complaint, we will look at the issues you are raising to see if we need to do a full investigation or if we could resolve the issue for you quickly. We may need to contact you to discuss your issue further with you to help us fully understand what the problem is.

If we cannot resolve things quickly, or the issues raised require an investigation into what has happened your complaint will be dealt with in the following way:

### Stage 1

This is the first formal stage and we will acknowledge receipt of your complaint within two working days. Our acknowledgement can be made verbally or in writing and will include:

- Confirmation that your complaint has been received and where possible, the name and contact details of the investigating officer
- A date or time-frame by which you can expect to receive a response; we endeavour to respond to you in full within 10 working days of receipt of your complaint. However some complaints may be complex and could need additional time to fully resolve the issues. If we cannot give you a full response within 10 working days, we will provide you with regular progress updates. These updates will detail the reason for the delay and when you can expect to receive a full response
- Our response can be provided by letter, email, face to face or by telephone. Where a response is given by telephone or in person, we will provide you with written confirmation of our discussions and any actions agreed
- We hope that our stage 1 review of your complaint will provide you with a fair and satisfactory outcome to the issues you have raised. Our response will explain how you can ask us to look at your complaint again. We would ask that if you do require a further review, please make the request as soon as possible and specify which aspects of the complaint you remain dissatisfied with i.e. what is specifically wrong or missing from the stage 1 response

There may be occasions when we consider the matter has been exhausted at Stage 1 and any further investigation would not change the outcome or decision. If this is the case, the decision to conclude the Council's complaints process at Stage 1 will be taken by the

relevant Head of Service in consultation with the service manager. If you are dissatisfied with this decision, you can refer the matter to the [Local Government and Social Care Ombudsman](#) or [Housing Ombudsman](#) for their consideration.

## Stage 2

The next stage of our complaints process is where we will ask the relevant Head of Service to respond after carrying out a full review of your complaint outcome and the specific aspects which you consider have not been fully addressed. This review will ensure that all matters raised in the original complaint have been fully and accurately addressed, and if not, to ensure that this is rectified.

We aim to respond to Stage 2 complaints within 10 working days, but will keep you informed of our progress if we cannot respond within this time. It should be noted that completion of Stage 2 will conclude the Council's complaints process.

## Complaints relating to our contractors

The Council has a number of third party contractors who carry out services on its behalf.

Complaints made to any of our contractors who deliver our services will be subject to the Council's complaints policy. Formal complaints will be investigated and responded to by our contractors at stage 1 of our process.

Complaints against our contractors which progress to Stage 2 will be undertaken by the relevant Head of Service.

Complaints performance relating to our contractors are raised and addressed through Quarterly Contract Monitoring meetings at a senior management level. This ensures the Council is aware of any emerging issues, and where service improvements are required.

## Complaints relating to more than one council service

Where a complaint includes issues for more than one part of the council, the investigation will be led by the person who has responsibility for the major part of the complaint. We will aim to provide you with a single response whenever possible.

## Complaints against members of staff

If you have an issue about a member of staff or our contractors' staff, we will investigate and take appropriate action, in accordance with our policies.

## Anonymous complaints

Anonymous complaints will be investigated as far as possible, and a record of the complaint kept. If an anonymous complaint makes serious allegations, we will refer it to the relevant Head of Service immediately.

## Dealing with unreasonable complainant's behaviour

There are a small number of customers whose behaviour we feel is unreasonable in pursuing the resolution of their complaint. A [separate policy](#) exists to deal with these instances and explains our approach.

## What happens if I'm still dissatisfied with the Council's response to my complaint?

If you have been through all stages of our complaints procedure and are still unhappy with the way the Council has dealt with the issues you have raised, you can ask the Local Government and Social Care Ombudsman (LGSCO) or Housing Ombudsman to review your complaint. The Ombudsman Service is a free service and will investigate complaints in a fair and independent way. Before you contact them, they will expect you to have given us chance to deal with your complaint.

The LGSCO investigates complaints about Councils including housing allocations and planning issues and can be contacted as follows:

Local Government & Social Care Ombudsman

PO Box 4771

COVENTRY

[www.lgo.org.uk](http://www.lgo.org.uk)

Telephone 0300 061 0614

The Housing Ombudsman will investigate complaints about housing management, repairs, leaseholder complaints, transfers and mutual exchanges, and can be contacted as follows:

Housing Ombudsman

Exchange Tower,

Harbour Exchange Square, London E14 9GE

[www.housing-ombudsman.org.uk](http://www.housing-ombudsman.org.uk)

Telephone 0300 111 3000

Please note that you will need to wait for a period of 8 weeks before contacting the Housing Ombudsman following the conclusion of our complaints process. However, for complaints about housing, your Member of Parliament or [Councillor](#) can refer the issue for you as a Designated Person before this 8 week time limit.

## Time Limit for making complaints

Complaints should be made as soon as possible after the incident because it is easier to gather information at the time and to avoid it happening again. Although the circumstances for each case will be considered (including the reason for the delay in telling us what went wrong), complaints must be made within twelve months from the event or issue being complained about.

## How you can help us

It's understandably upsetting when our service doesn't meet your expectations or we may not be able to give you the answer you wanted to hear. We'll do everything we can to resolve your complaint to your satisfaction but we would ask that you:

- Treat our staff with respect
- To not use abusive language or behaviour when dealing with us
- Meet all reasonable requests we make when we try to address your concerns
- Do not continue to make repeated complaints where the issues have already been fully addressed

## Policy for dealing with unreasonably persistent or vexatious complainants

Crawley Borough Council values all kinds of customer feedback and expressions of dissatisfaction are treated seriously and recognised as a way for the Council to identify and implement service improvements. The Council is also accountable for the proper use of public money and must ensure that that money is spent wisely and achieves value for complainants and the wider public. Dealing with a complaint is a straightforward process but in a minority of cases, people pursue their complaints in a way which can either hinder the investigation of their, or other people's complaint or can have significant resource issues for the council. This can happen either while their complaint is being investigated, or once the council has finished dealing with the complaint. We are committed to dealing with all complaints equitably, comprehensively, and in a timely manner. We will not normally limit the contact which complainants have with council staff or offices.

### Aim of this policy

This procedure aims to help the Council manage unreasonably persistent complainants and unreasonable complainant behaviour based on what the Ombudsmen would regard as good practice in dealing with these complainants.

It sets out how we will decide which complaints will be treated as vexatious or unreasonably persistent, and what we will do in those circumstances. The policy is for the information of staff and customers. It should be read in conjunction with our Corporate Complaints Procedure.

### Definition of an unreasonably persistent or vexatious complainant

The Council has adopted the Local Government and Social Care Ombudsman's definition to identify complainants that fall into this category.

"Unreasonable and unreasonably persistent complainants are those complainants who, because of the frequency or nature of their contacts with an authority, hinder the authority's consideration of their, or other people's, complaints."

Unreasonable and unreasonably persistent complainants may have justified complaints or grievances but be pursuing them in inappropriate ways. Alternatively, they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. Their contacts with us may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved.

Raising legitimate queries or criticisms of a complaints procedure as it progresses, for example if agreed timescales are not met, should not in itself lead to the complaint being regarded as vexatious.

Similarly, the fact that a complainant is unhappy with the outcome of a complaint and seeks to challenge it once, or more than once, should not necessarily cause him or her to be labelled unreasonably persistent.

### Abusive and unacceptable behaviour

We do not expect our staff to tolerate unacceptable behaviour by complainants, or any customer. Unacceptable behaviour includes that which is abusive, offensive or threatening and may include:

- Using abusive or foul language on the telephone
- Using abusive or foul language face to face
- Any form of intimidating or threatening behaviour

We will take action to protect staff from such behaviour. If a complainant behaves in a way that is unreasonably persistent or vexatious, we will follow this policy.

## **Actions and behaviours of unreasonable and unreasonably persistent complainants**

Unreasonable and unreasonably persistent complainants may have justified complaints or grievances but be pursuing them in inappropriate ways, or they may be intent on pursuing complaints which appear to have no substance or which have already been investigated and determined. Their contacts with us may be amicable but still place very heavy demands on staff time, or they may be very emotionally charged and distressing for all involved.

Sometimes the situation between CBC and a complainant can escalate and the behaviour moves from being unreasonable and unreasonably persistent to behaviour which is unacceptable, for example, abusive, offensive or threatening. Such complainants are in a very small minority, but potentially this could move to the position of having to restrict access to council premises or even having to resort to legal action to address such behaviour, for example, in the form of anti-social behaviour orders or injunctions.

These are some of the actions and behaviours of unreasonable and unreasonably persistent complainants which authorities often find problematic. It is by no means an exhaustive list and local factors will vary.

- There are insufficient or no grounds for the complaint and it is made only to annoy (or for reasons that the complainant does not admit or make obvious)
- There are no specified grounds for the complaint despite offers of assistance with this from a member of staff
- The complainant refuses to co-operate with the complaints investigation process while still wishing their complaint to be resolved
- The complaint is about issues 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) and where the complainant refuses to accept this
- The complainant insists on the complaint being dealt with in ways which are incompatible with the complaints procedure or with good practice (insisting, for instance, telling us how they would like their complaint handled or insisting the complaint is only dealt with by the Chief Executive)
- There appears to be groundless complaints about the staff dealing with the complaints, and an attempt to have them dismissed or replaced
- There is an unreasonable number of contacts with us, by any means, in relation to a specific complaint or complaints (for example sending multiple emails or leaving multiple voicemails, seeking numerous meetings with staff to discuss the same issues)
- There are persistent and unreasonable demands or expectations of staff and/or the complaints process after the unreasonableness has been explained 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/messages or emails)
- Attempts to harass, verbally abuse or otherwise seek to intimidate staff dealing with their complaint by use of foul or inappropriate language or by the use of offensive or discriminatory language
- Subsidiary or new issues are raised whilst a complaint is being addressed that were not part of the complaint at the start of the complaint process
- Trivial or irrelevant new information is introduced whilst the complaint is being investigated and an expectation that this to be taken into account and commented on
- There is a change to the substance or basis of the complaint without reasonable justification whilst the complaint is being addressed
- The complainant denies statements he or she made at an earlier stage in the complaint process
- The complainant electronically records meetings, home visits and conversations without the prior knowledge and consent of the other person involved (this would also include filming staff)

- The complaint is the subject of an excessively “scattergun” approach; for instance the complainant is pursuing a complaint or complaints with various divisions in the authority at the same time, and possibly simultaneously with a Member of Parliament, other councils, elected councillors of this and other councils, the councils independent auditor, the Monitoring Officer or Standards Committee, the police, solicitors, and/or the Local Government Ombudsman
- The complainant refuses to accept the outcome of the complaint process after its conclusion, repeatedly arguing the point, complaining about the outcome, and/or denying that an adequate response has been given
- The same complaint is made repeatedly, perhaps with minor differences, after the complaints procedure has been concluded and where the complainant insists that the minor differences make these 'new' complaints which should be put through the full complaints procedure
- The complaint remains "active" through the complainant persisting in seeking an outcome which we have explained is unrealistic for legal, policy or other valid reasons
- The complaint relates to an issue based on a historic and irreversible decision or incident
- The complaint combines some or all of these features

The relevant Head of Service, in consultation with the Head of Legal, Democracy and HR Services can decide:

- Whether the policy will be applied to a complainant
- What restrictions will be placed on contacts and for how long
- Which officers/members are to be informed that contact with a named complainant is being restricted and why
- When restrictions can be lifted or should continue upon reviewing the case within a set time period

The decision to restrict access to our offices will be taken by Head of Legal, Democracy and HR Services in consultation with the relevant Head of Service, and will normally follow a prior warning to the complainant. Any restrictions imposed will be appropriate and proportionate. The options we are most likely to consider are:

- Requesting contact in a particular form (for example, email only);
- Requiring contact to take place with a named officer;
- Restricting telephone calls to specified days and times; and/or
- Asking the complainants to enter into an agreement about their future contacts with us

In all cases where we decide to treat someone as an unreasonably persistent complainant, we will write to tell the complainant why we believe their behaviour falls into that category, what action we are taking and the duration of that action. We will also tell them how they can challenge the decision if they disagree with it. If we decide to carry on treating someone as an unreasonably persistent complainant and we are still investigating their complaint six months later, we will carry out a review and decide if restrictions will continue.

If a complainant to whom CBC has decided the policy will apply has no contact with the Council within that period, the position should be reviewed and a decision taken on whether any restrictions placed on the complainant’s contacts should be cancelled. If the restrictions are cancelled, urgent consideration should be given to re-introducing the restrictions if the behaviour which led to the original decision re-commences.

Where a complainant whose case is closed persists in communicating with us about it, we may decide to terminate contact with that complainant about the matter. In such cases, we will read all correspondence from that complainant, but unless there is fresh evidence which affects our decision on the complaint we will simply acknowledge it or place it on the file with no acknowledgement.

New complaints from people who have come under the unreasonably persistent complainant’s policy will be treated on their merits.

## Considerations prior to taking action under the policy

Different considerations will apply depending on whether the investigation of the complaint is ongoing or whether it has been concluded. To some extent the latter is easier to deal with. It is in effect the complainant simply refusing to take no for an answer, and CBC has the option of ending all communication with the complainant, and where appropriate referring the complaint to the Ombudsman. However, where the complaint is ongoing there needs to be some continuing contact with the complainant.

The decision to designate someone as an unreasonable or unreasonably persistent complainant is onerous and could have serious consequences for the individual.

Before deciding whether the policy should be applied, the Council should be satisfied that:

- The complaint is being or has been investigated properly;
- any decision reached on it is the right one;
- communications with the complainant have been adequate; and
- the complainant is not now providing any significant new information that might affect the authority's view on the complaint

If the Council is satisfied on these points it should consider whether further action is necessary prior to taking the decision to designate the complainant as unreasonable or unreasonably persistent. Examples might be:

- If no meeting has taken place between the complainant and an officer/officers, and (provided that CBC knows nothing about the complainant which would make this unadvisable) consider offering the complainant a meeting with an officer of appropriate seniority. Sometimes such meetings can dispel misunderstandings and move matters towards a resolution
- If more than one department is being contacted by an unreasonably persistent complainant; a key officer will be designated to co-ordinate the response(s)
- If the complainant is a tenant the relevant Neighbourhood Housing Manager maybe designated to provide a response
- If the complainant has special needs, an advocate might be helpful to both parties: consider offering to help the complainant find an independent one
- If the complaint relates to one service area a key officer will be designated by the Head of Service or Senior Manager to investigate and provide a response

## Options for action

The precise nature of the action taken in relation to an unreasonable or unreasonably persistent complainant should be appropriate and proportionate to the nature and frequency of the complainant's contacts with the Council at that time.

Restrictions will be tailored to deal with the individual circumstances of the complainant and may include:

- Placing time limits on telephone conversations and personal contacts
- Restricting the number of telephone calls that will be taken (for example, one call on one specified morning/afternoon of any week).
- Limiting the complainant to one medium of contact (telephone, letter, email etc.) and/or requiring the complainant to communicate only with one named member of staff
- Requiring any personal contacts to take place in the presence of a witness
- Refusing to register and process further complaints about the same matter
- Where a decision on the complaint has been made, providing the complainant with acknowledgements only of letters or emails, or ultimately informing the complainant that future correspondence will be read and placed on the file but not acknowledged. A designated officer should be identified who will read future correspondence

## Informing the customer of the decision



Before applying any restrictions, the service manager will contact the complainant by phone or by email to explain why the behaviour being displayed is causing concern and ask them to change this behaviour. The service manager will explain the actions that the Council may take if the behaviour does not change.

When the decision has been taken to apply this policy to a complainant, the Head of Service will contact the complainant in writing to explain:

- Why the council has taken the decision
- What action the council is taking and what this means for his or her contacts with the Council
- The duration of that action
- The right of the complainant to contact the Local Government Ombudsman about the fact that their complaint has been treated as a vexatious/persistent

A copy of this policy will be enclosed with the notification, and a copy of the correspondence and review date for the decision will be recorded centrally. In most cases restrictions will apply for between three and six months but in exceptional cases may be extended. In such cases the restrictions would be reviewed on a quarterly basis.

## **Reviewing any restrictions on persistent complainants**

The complainant has the right to challenge the decision on any restrictions to be applied under this policy and they should request for this review to take place within 10 working days of the initial notification. Such requests should be forwarded to the Deputy Chief Executive who will undertake the review of the decision.

The review will determine whether:

- A decision was right to invoke the policy and/or
- Any particular restrictions applied are justified.

Reviews of decisions to restrict a complainant's contacts or the authority's responses to them should be taken by an officer senior to the person who made the original decision. When reviews are carried out, the authority should write to advise the complainant of the outcome and, if restrictions are to continue to be applied, when these will next be reviewed.

Any restrictions will be reviewed by the Head of Legal, Democracy & HR in six months or when there has been any further contact from the complainant. If a complainant to whom CBC has decided the policy will apply has no contact with the Council within that period, the position should be reviewed and a decision taken on whether any restrictions placed on the complainant's contacts should be cancelled.

If the restrictions are cancelled, urgent consideration should be given to re-introducing the restrictions if the behaviour which led to the original decision re-commences.

## **Referring unreasonable and unreasonably persistent complainants to the Local Government and Social Care Ombudsman or Housing Ombudsman**

In some cases, relations between authorities and unreasonable and unreasonably persistent complainants break down badly while complaints are 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 the council's complaints procedure and where this occurs the Ombudsmen may be prepared to consider complaints before complaints procedures have been exhausted. This is the case even in respect of statutory complaints procedures.

A complainant who has been identified as an unreasonably persistent complainant may make a complaint to the Ombudsman about the way in which he or she has been treated. The Ombudsman is unlikely to be critical of the council's action if it can show that its policy has been operated properly and fairly.

## **New complaints from complainants whose previous complaints have been treated as abusive, vexatious or persistent**

The Head of Legal, Democratic & HR Services will submit a quarterly report on complaints and compliments to the Corporate Management Team. This will then be published in the Members Bulletin.

### **Record keeping**

- The name and address of each customer who is treated as abusive, vexatious or persistent
- When the restriction comes into force and ends
- What the restrictions are
- When the customer and departments were advised