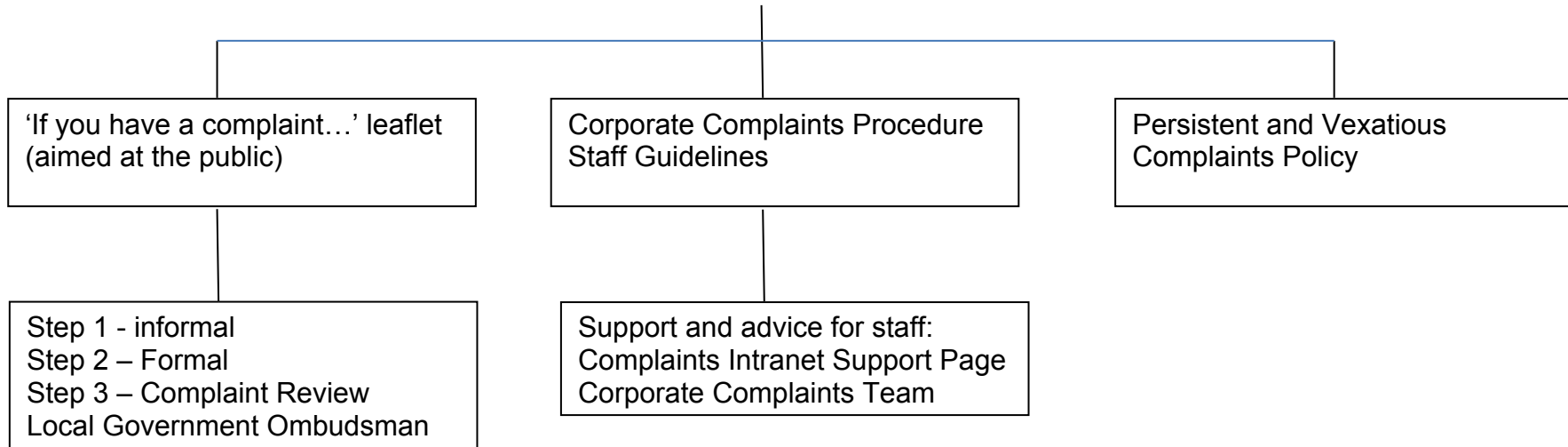


**Newcastle City Council's**

**Corporate Complaints Procedure**

Newcastle City Council's Corporate Complaints Procedure (overarching procedure and exclusions from Corporate Complaints Procedure)



There are some other complaints procedures which it may be more appropriate to follow:

Complaints about [councillors](#)

Complaints about [schools](#)

Complaints about [Adult Social Care](#)

Complaints about [Children's Social Care](#)

Complaints about other organisations:

Complaints about [Your Homes Newcastle \(YHN\)](#)

Complaints about [Byker Community Trust](#)

This document sets out the scope of our [Corporate Complaints Procedure](#), making clear what constitutes a corporate complaint, and what falls outside of the scope of the procedure.

## **What is a complaint?**

### **Definition of a complaint:**

A complaint is an expression of dissatisfaction made about the standard of service, actions or lack of action by us, which affects someone using our services.

## **Who can complain?**

The correct person should make the complaint. The complainant must be our customer – the person who directly had the experience with the council. If they need help to make their complaint, they must give a signed authority/written permission for another person to act on their behalf in relation to their complaint. If they are unable to sign due to their mental capacity, they will most likely already have a legal appointee who can act on their behalf.

## **What can a complaint be about?**

The complaint must be about something which the council has responsibility for. The complaint can be about one or more of the following:

- Poor quality of service;
- Refusal to provide a service;
- Delay in providing a service;
- A member of staff;
- Someone feels they were unfairly treated under a council policy; or
- An IT Systems failure.

## **Is this the correct Complaints Procedure?**

There are a number of complaints procedures, and we need to ensure that each complaint is dealt with under the correct procedure.

- [Complaints about Councillors](#) have a separate procedure.
- [Complaints about Schools](#) have a separate procedure.
- Complaints about [Adult Social Care](#) or [Children's Social Care](#) have separate procedures.

All other complaints may be submitted using the [Corporate Complaints Procedure](#) and the Corporate Complaints Team will determine whether it can be treated as a Corporate Complaint or needs to be dealt with in another way.

Your Homes Newcastle (YHN), our arms-length management organisation for council housing stock, has its own [YHN complaints procedure](#).

## **What's not treated as a complaint?**

If the customer raises a concern with the council for the first time, it will be treated as a first request for service (we might also call this a customer enquiry or an informal complaint). A first request for service will not be classed as a corporate complaint against the council.

Should we fail to deal with the first request for service, the customer may escalate their concerns to a manager or to make a corporate complaint at that point.

There are times when a customer says they want to complain to the council, but for one reason or another, their concerns do not fall within the scope of the Corporate Complaints Procedure.

Firstly, we need to determine what's excluded from the procedure. If the concerns raised are excluded, it just means that we don't record it formally as a corporate complaint. In most cases, we may still be able to respond to the customer, but we just won't treat it or record it as a corporate complaint.

See **Appendix 1** for examples of matters which fall outside of the Corporate Complaints Procedure and are therefore excluded; this is intended as guidance and is not an exhaustive list of exclusions.

## **Summary**

In summary, to determine if something falls within the scope of the Corporate Complaints Procedure, we should ask the following questions:

- **Is the complaint about an issue that is outside the council's responsibility?** If 'Yes', inform the customer it is not the council's responsibility. If we know, we can advise the customer whose responsibility it is, but do **not** forward the customer's concerns to them (as we may be in breach of the Data Protection Act).
- **Is the complaint about a decision reached by councillors following proper procedures as set out in the Newcastle Charter?** Effectively, if it was agreed by councillors following proper procedures as set out in the Council's constitution, the Newcastle Charter, the customer cannot complain about it.
- **Is the issue more than 12 months old?** If 'Yes' it is normally deemed too old to accept as a corporate complaint for us to investigate, unless there is a good reason for the delay (for example, someone has been unable to lodge their complaint earlier due to incapacity, or where someone has only just become aware of the issue).

- **Is there another procedure which is more appropriate than the Corporate Complaints Procedure?** If 'Yes', refer to the other procedure.
- **Is this the first time it was brought to our attention** (and therefore can be treated as a first request for service, a customer enquiry, or an informal complaint)?

There are a number of instances where we will not treat the complaint as a corporate complaint and which need to be dealt with in a different way:-

### **Offensive complaints**

A complaint is considered to be offensive if it includes comments which are swearing or of a racist or discriminatory nature (if the recipient of the complaint deems it to be so). The complaint should be referred to the Service Manager who will determine the appropriate response.

A distinction must be drawn between the above and a statement made in good faith. For example, a customer might allege a member of staff swore at them and when the customer repeats back what was said to them, or what they heard a member of staff say, they must give this detail as part of making their complaint.

### **Malicious complaints**

A malicious complaint is one that is investigated and found to be unsubstantiated, and where it has been established during the investigation that its submission was motivated exclusively by malice. This malice can be directed towards a member of staff or other person.

If the complaint is seen as malicious then a reply from a senior manager to the complainant may be more appropriate, outlining the way in which the matter was handled, that the matter was not proven and that no further action will be taken.

### **Persistent complainants**

There will be occasions where a complainant will persist in their cause, often following multiple routes (Corporate Complaint, Chief Executive or Director, Councillor or MP, Advocate, Freedom of Information/Data Protection, and social media).

Whenever a complaint is received which has been investigated previously, and replied to, the matter needs to be referred to the Service Manager – Customer Contact. All persistent complaints will need to be investigated. If the substance of the complaint is the same as the previously determined one, and there are no new issues presented, then the Service Manager – Customer Contact will apply the [Persistent and Vexatious Complaints Procedure](#).

### **Anonymous complaints**

In the case of anonymous complaints a senior manager will need to decide whether an investigation is required. This will depend on the nature of the complaint and the information provided by the complainant.

### **Collective complaints/petitions**

Collective complaints and petitions should generally be treated as one formal complaint. The response should be directed at the person acting as the co-ordinator. However, in some cases it may seem appropriate to send the reply to more than one person. The discretion to send out more than one reply lies with the Service Manager.

### **Future considerations**

It may be worth noting that councils are currently going through major changes as a result of the current economic climate and reducing resources. New and innovative ways of delivering services are being introduced. Already, Newcastle City Council has several PFI-funded buildings and external providers operating leisure centres. Complaints about such schemes may fall outside the council's own Corporate Complaints Procedure.

Further plans for new management arrangements for leisure facilities and parks are underway or being developed. It is important to bear in mind that in future, these services may not fall within the scope of the council's Corporate Complaints Procedure. However, our partners in these ventures should also have consistently robust complaints procedures in place for customers to use.

Dated August 2015

To be reviewed August 2017

#### What is not included in the Corporate Complaints Procedure...

There are some alternative processes that are more appropriate than the Corporate Complaints Procedure. This includes some things a customer cannot complain about because there is a more appropriate body to deal with their complaint; or because we don't have a legal responsibility for the issue they wish to complain about. This is not a complete list, but a customer cannot make a corporate complaint about:

1. Something they knew about for more than 12 months before making their complaint, unless there is a good reason for the delay (for example, someone has been unable to lodge their complaint earlier due to incapacity, or where someone has only just become aware of the issue).
2. Complaints that have already been properly examined by the council or the appropriate Ombudsman body.
3. Something they could appeal about to a tribunal (such as the Housing Benefit Appeals Service or a Penalty Charge Notice – or parking fine – appeal being taken to the Traffic Penalty Tribunal).
4. Something they could appeal about to a government minister (such as a planning appeal to the Planning Inspectorate).
5. Something they could go to court about (such as a Fixed Penalty Notice or Private hire vehicle operator licence), unless we think there are good reasons why they should not be expected to do so.
6. Something about which the customer has already appealed to a tribunal or a government minister or has taken court action against the council, and similarly, where the council has commenced court proceedings against them. The Corporate Complaints Procedure cannot be used as an alternative way to have such a decision reviewed. All we can do is check that staff properly followed council policy and procedure and made appropriate choices based on the circumstances.
7. Something that they wish to make a compensation claim for, under the council's insurance claim procedure.
8. Issues that fall under the Freedom of Information Act or Data Protection Act (including the right of subject access under section 7) which falls under the [Information Commissioner's Office](#) remit.
9. Something affecting **all or most** of the people living in a council's area, such as complaints about the council's use of public money, or the introduction of Weekly Alternating Collections for household waste and recycling bins.

10. Court proceedings, including:
  - a. evidence given to the court, or
  - b. actions and decisions by the council in those proceedings.
11. Personnel matters (about council employment, including pay, pensions or dismissal; or about applications for employment).
12. Formal action, legitimately taken, by employees/union members, such as strike action or work to rule, which the council has no control over.
13. Some external contractors or sub-contractors, for example, Bailiffs. Residents should complain to the contractor or sub-contractor in the first instance. If they are unhappy with the way in which their complaint was handled by the contractor or sub-contractor, they may approach the council afterwards.
14. Schemes run for staff such as Employee Home Improvements Scheme, Bike to Work Scheme or Staff Car Scheme.
15. Most internal management of schools (including Academies and Studio Schools) and colleges (including conduct, discipline and teaching – but we can look at some aspects of the provision required by a child’s statement of special educational needs).
16. School admissions appeals, which go to an independent School Admissions Appeals Panel. The Appeals Panel will decide if the school’s admission criteria were properly followed and are legal according to the School Admissions Code. Complaints can be made directly to the Local Government Ombudsman about the way the appeal was carried out, but not about the appeal decision itself.
17. Exclusion appeals, which go to an independent Review Panel. The role of the panel is to review the Governing Body’s decision not to reinstate a permanently excluded pupil. Complaints about the conduct of the review can be made to the Local Government Ombudsman.
18. Decisions reached by a properly convened body or committee; although we can look to ensure that the body or committee was properly convened when the decision was reached, for example.
19. Complaints about taxi drivers and taxi licencing which are subject to a statutory framework (Local Government (Miscellaneous Provisions) Act 1976).

**20. Decisions reached by Council, Cabinet or a Committee**

Decisions with regard to council policy, expenditure or future plans and infrastructure schemes are taken by full Council, the Cabinet or various formal committees made up of elected councillors.

Customers cannot make a corporate complaint about a decision reached by elected councillors following proper procedures as set out in the Council’s constitution, the Newcastle Charter. This



includes the council's budget decisions. We can only investigate the manner in which the decision was made.

In addition, customers may complain about council policy where they feel that, **compared to others:**

- they do not have equal access to council services offered by Newcastle City Council, or
- they have been unfairly treated under the policy.