

THE MORAY COUNCIL

COMPLAINTS POLICY

2010/11

COMPLAINTS POLICY

1. INTRODUCTION

This policy sets out our arrangements for complaint handling and reflects the Moray Council commitment to provide the public with an effective and transparent procedure for dealing with complaints. It recognises that the most successful organisations are those that have moved toward a culture that perceives complaints as an opportunity rather than a threat. The Council through this policy is demonstrating both fairness and openness in the way it deals with members of the public and that it is prepared to listen to its customers.

2. RATIONALE

This policy addresses the need to provide the public with a fair and impartial system for resolving complaints. Those who complain should not be seen as adversaries or nuisance but as a valuable source of feedback on service delivery. In order to provide effective services it is essential to develop a positive approach and treating those who complain in an open helpful manner whilst providing fair and equitable remedies clearly linked to service improvements. However whilst complaints are an important aspect of business life all organisations have to balance the demands of individuals against the needs and aims of the organisation. Those in charge or managing the complaint process will have to maintain this balance, weighing up the evidence in order to decide what is fair and reasonable in the circumstances of each case.

3. POLICY AIM

The aim of the policy is to improve customer relations by dealing fairly and openly with complaints from the public, put things right where they have gone wrong and where possible using outcomes to make improvements to services.

3.1 Commitment to the Public

Complaints procedures are customer focused promoting a culture that respects members of the public who complain. The Council recognises complaints as an opportunity to resolve problems and to put things right where they have gone wrong. They support the Council's commitment to diversity and transparency in its dealings with the public, its procedures will be easy to understand, widely available and the outcomes of complaint investigations will offer fair and timely remedies.

3.2 Commitment to Staff

Council staff have a right to work in an environment that is free from harassment, threat and intimidation. Unacceptable behaviour towards staff will not be tolerated and action will be taken against those who behave in such a manner.

3.3 Definition of a Complaint

The Council has adopted the following definition used by the Commissioner of Local Government in Scotland (the Ombudsman):

“A complaint is an expression of dissatisfaction with the Council's procedures, charges, employees, agents or quality of service.”

Complaints can be wide ranging but typically will fall into the following general categories: -

- Dissatisfaction with the service provided, including failure to achieve specific standards of service, where applicable.
- Delays in responding.
- Dissatisfaction with staff.

3.4 Matters not regarded as complaints within this policy: -

- Initial reporting of faults.
- Request for a service.
- Dissatisfaction with Council policy or decision by Council committees or sub committees.
- Insurance claims.
- Legal matters.
- Matters covered by other procedures
 - Outcomes of planning applications and planning enforcement although complaints about the process associated with these functions may be considered
 - Conduct of Elected Members.
 - Statutory Social Work Complaints (i.e. those services provided under a statutory obligation).
 - Support and care provision in services subject to regulation by the Care Commission.
 - Where a statutory right of appeal exists i.e. Planning refusal, exclusion of pupils from school, valuation appeals.
 - Employment related personnel matters.

Compensation is outwith the scope of the Complaints Policy. Complainants seeking compensation should be referred either to the Council Insurers or Legal Services where compensation would be a matter for the courts to decide.

3.4 Matters covered by other procedures: -

- Conduct of Elected Members is governed by the Standards Commission who carry out investigations into any complaint against elected members.
- Statutory Social Work Complaints (i.e. those services provided under a statutory obligation) have their own separate procedures and leaflets.
- Housing Support Services in respect of the 16-24 Young Person Service, Outreach and Resettlement, Temporary Accommodation, and Sheltered Housing. Complaints about these and other Housing Care and Support Services should be made in the first instance to the Housing Manager responsible for the service but if unresolved, referred to the Care Commission.
- Where a statutory right of appeal exists i.e. Planning refusal, exclusion of pupils from school, valuation appeals- The appropriate appeal procedure must be used in such instances rather than the complaints procedure.

4. PROCEDURES

4.1 Making a Complaint

Complaints can be made in writing, over the telephone or in person and leaflets explaining how to make a complaint are available in different formats to cater for public need. This information is also available on the Council Website together with more detailed information on complaint handling.

4.1.1 Enquiries about Complaints through MP/MSP's

Enquiries made through MP/MSPs about matters that have not previously been raised as a complaint will be referred to the appropriate Service Director who will treat the matter as a stage one complaint. The MP/MSP and the complainant will be advised accordingly.

4.1.2 Complaints made through Councillors

If a Councillor receives a complaint, they may decide to ask the Complaints Officer to deal with it on their behalf. The complaint will be registered on the system and will incorporate

any existing enquiry and follow the two-stage process. The Councillor must be kept advised of the action taken on the complaint and receive copies of all correspondence.

4.2 The Process - Responding to a Complaint

The Complaints procedure is a two-stage process and its objective is to provide comprehensive responses that address in a fair and impartial manner all of the issues raised by complainants. Responses should support the Council's commitment to diversity and transparency in its dealings with the public and where possible remedies should be clearly linked to service improvement.

Separate procedures exist for complaints about Statutory Social Work Services which involve additional statutory procedures; details are available on the Council Website.

4.3 The Process - Response Targets

The Council will respond to all complaints. Upon receipt of a complaint an acknowledgement will be sent within 2 working days. A full response will normally be sent within 20 working days and, if this cannot be achieved, an interim response will be sent stating the reason and offering a revised response date. Complaint details will be logged on the complaint database to enable the service to track progress and produce reports.

4.4 The Process Stage One - Departmental Investigation

The Service Director will normally delegate the complaint to the Head of Service responsible for the service area that is the subject of the complaint. The Head of Service may investigate or can appoint an investigating officer who will consider all of the relevant evidence in order to recommend what is fair and reasonable in the circumstances of each case.

4.5 The Process - Outcomes and Remedies

Responses will explain how the investigation has been carried out and will address all of the issues raised in the complaint. They will advise whether the complaint is either:

- Not upheld - The investigation concludes that the Council has acted properly and no further action is to be taken.
- Upheld - The investigation concludes that the Council was at fault, this should be linked to any identifiable service improvement that will prevent a reoccurrence.
- Part-upheld - The investigation concludes that the Council was at fault in part and acknowledges this. The part-upheld outcome should also be linked to service improvement.

For any complaint that is upheld or part-upheld one or more of the following remedies will be offered in addition to an apology which will acknowledge a mistake has been made:

- Redress -The service offers to put things right where they have gone wrong, admitting where mistakes have been made. The Head of Service on behalf of the Director is taking corrective action.
- Reimbursement - Reimbursements are authorised by Heads of Service on behalf of Directors to cover vouched actual costs incurred as a direct result of mistakes made by the Council.
- Reinforcement - Recognises that the correct Council procedures have not been followed or service has fallen short of what could be expected. Corrective action involves providing training or instructions to staff which reinforce the correct systems of work in order to prevent a reoccurrence.
- Service Improvement - The service recognises that its working procedures can be improved. It has learned from a mistake and adapts its procedures to avoid a reoccurrence and improve future service delivery.

4.6 The Process Stage Two - The Appeal (A Review by the Chief Executive)

Complainants who remain dissatisfied with the outcome of a stage one investigation can appeal to the Chief Executive within three months of receipt of the stage one response. Response times and categories for outcomes remain the same as those for stage one complaints and the appeal will be considered against the following criteria:

- That the stage one response was made in accordance with Council policy and within limits of any delegated authority.
- That the complaint procedures were correctly observed.
- That all available evidence was considered.
- Any additional relevant evidence has been submitted and considered.
- That the appeal is not out of time.

The appeal will be investigated by the Complaints Officer and a response including recommendations will be submitted to the Chief Executive who will respond to the complainant advising of the outcome. The Council now considers the complaint closed.

4.7 The Process - Referral to the Scottish Public Service Ombudsman

Once the Council complaints procedures have been exhausted and if a complainant still remains dissatisfied they can refer their complaint to the Commissioner of Local Government in Scotland (the Ombudsman) who provides an external, independent, free and fair response to complaints about public services.

5. RECORDING, PERFORMANCE MONITORING and REPORTING

Complaints data will be recorded on the Council complaint database. Directors will report stage one outcomes to Service Committees and the Chief Executive will report overall performance including stage two outcomes to the Policy and Resources Committee and annually to the Audit and Performance Committee. This will provide a forum for Elected Members to scrutinise and challenge the Council performance on complaint handling.

6. RESOURCES

The resources required to deliver this policy are contained within existing staff complements and non-staff operating budgets.

7. CONSULTATIONS

This Policy was produced following consultation with the Commissioner of Local Government in Scotland (the Ombudsman) and also draws on best practice drawn from other Local Authorities. It also includes revisions identified by the Complaint Working Group and has been Equality impact assessed.

8. AUTHORISATION & REVIEW

The policy will be reviewed annually and will include changes and improvements arising from operational reviews. Any proposed changes will be submitted to the Policy and Resources Committee for approval.