

Our complaints policy

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1. Purpose of our policy

The purpose of this policy and procedure is to set out Lichfield District Council's approach to responding to customer feedback and when that feedback is a complaint to show how we will deal with that complaint in a timely, fair and consistent way.

This document is written to provide advice and guidance to officers and members.

2. Scope of our policy

This policy applies to any person or organisation wishing to give a compliment, provide a suggestion or make a complaint against Lichfield District Council.

The policy and procedure applies to all complaints with the following exclusions:

- A request for a service, or where there has been an operational failure which is easily rectified, e.g. a report of litter in a park, or a missed bin collection.
- Complaints made about elected members - a separate procedure exist for such complaints and these should be made to the council's monitoring officer.
- A complaint about a decision of Full Council, Cabinet or other decision-making committee.
- A complaints about planning decision. Applicants who are unhappy about a planning decision should follow the planning appeal process. Whilst the council's complaints policy will not be used to address complaints about the outcome of a planning decision, it can be used to investigate complaints about the procedures and processes used to arrive at a decision.
- Complaints which may lead to an insurance claim are referred directly to the council's insurance officer to be handled by our insurance company.
- Contractual disputes that have not exhausted the dispute resolution outlined in the contract.
- A complaint that has been considered by the Local Government Ombudsman and closed.
- A complaint that is subject to, or has already been through, court or tribunal proceedings, or there is a separate appeals process to a court or tribunal service.
- Complaints regarding operational matters at Burntwood or Friary Grange leisure centres, or at the Lichfield Garrick. Complainants should address such complaints to the leisure centre operator (Freedom) or to the theatre operator (the Lichfield Garrick Trust).
- Complaints, because of their nature, that are better considered through the council's whistleblowing policy, grievance policy or the Fluency Duty. Complaints about the loss of personal data. Where such loss is accepted, the council will seek advice from the Information Commissioner's Office (ICO).

Anonymous complaints will be noted and reviewed to determine whether there is merit in a thorough investigation.

The council is not obliged to respond to complaints that are vexatious, oppressive, threatening or abusive. These are seen as complaints which are without foundation and/or which are intended to result in harsh or wrongful treatment of the person who is the subject of the complaint. In these types of circumstances a complaint will not be taken forward by the council.

If the Local Government Ombudsman receives a complaint before it has been investigated by the council, it will be passed to the council to investigate in line with this policy.

3. Underlying principles

The definitions for the purpose of this policy:

- A complaint is an expression of dissatisfaction received from a customer about the council's service provision or implementation of policy.
- A complaint may be about a lack of response, poor service, delays in service being provided, one-off or ongoing problems and /or about the behaviour or attitude of council employees, or contractors.
- Complaints can be made in writing, electronically or verbally.

A request for a service e.g. noise complaint, an appeal for assistance, or a request for a repair is not considered a complaint. A request for service can however become a complaint if no action is taken to deal with the service request, where the quality of service is poor, decisions do not follow council policy, or where insufficient information has been provided or information is misleading.

About complaints

Wherever possible, the council will seek to discuss the issues with the complainant in order to fully understand their concerns and find out what changes or outcome they want to see.

If the issue can be satisfactorily resolved at first point of contact, no further action is needed and the complaint does not need to be recorded formally. A good example of this would be someone complaining about toilets being dirty, and a staff member resolving the problem straight away.

If it is clear the complainant remains unhappy (or perhaps is raising an issue that is persistent) this should be handled as a formal complaint and formally recorded.

Whistleblowing policy, Grievance policy and Fluency Duty

It may be more appropriate for certain complaints to be handled under the council's whistleblowing policy, grievance policy or the national Fluency Duty Code of Practice. A decision will be made on a case by case basis and the complainant will be informed within three working days if their complaint is to be handled under an alternative policy.

These policies can be found at these locations:

- **Grievance policy**
(<https://brian.lichfielddc.gov.uk/Departments/HRServices/HR%20Services%20Document%20library/Grievance%20Policy.docx>)
- **Whistleblowing policy**
(<https://brian.lichfielddc.gov.uk/Departments/audit%20and%20fraud/Audit%20%20fraud%20document%20library/Whistleblowing%20policy.pdf>)
- **National Fluency Duty Code of Practice**
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/573013/english_language_requirement_public_sector_workers_code_of_practice_2016.pdf)

About unreasonable and unreasonably persistent complainants

The council has adopted the Local Government Ombudsman's definition: Unreasonable and unreasonably persistent complainants who, because of the nature or frequency of their contacts with an organisation, hinder the organisation's consideration of their, or other people's, complaints.

Further details of how and when this policy will be applied is in section 13.

About compliments

The council considers a compliment as an unsolicited expression of praise, admiration, thanks or satisfaction from a customer, which is over and above common courtesy. We will consider the acknowledgement of formal compliments on a case-by-case basis. Acknowledgements may be verbal or in writing.

4. Our vision

Our vision is to be a strong, flexible council that delivers good value, quality services and helps to support a vibrant and prosperous economy, healthy and safe communities and clean, green and welcoming places to live.

Underpinning our vision is our ambition to be a council that is fit for the future, a strong, listening and flexible council, in tune with our customers and able to tailor services to best suit local needs. Responding to customer feedback and learning from complaints has an important part to play in helping achieve this ambition.

We are committed to creating a culture where complaints are welcomed and are used to review and improve the services we provide and want to deal with complainants in ways that are open, fair and proportionate.

Our customer promise includes the following commitment to:

- make it easy to report a complaint, comment or compliment.
- acknowledge all complaints within three working days.
- provide a full response within 20 working days, or let you know when we will respond in full.
- treat complaints confidentially, unless we have the complainant's permission to share, while making sure we are fair to everyone concerned.
- let you know how to take your complaint further if you are not satisfied with our response.
- say sorry when we are at fault and do our very best to put things right.
- record complaints, comments and compliments and use them to review and improve our services.

In responding to complaints the council will normally require that the complaint is made within 12 months of the complainant knowing about the problem. This is because where there is a significant delay in raising the concern it is more difficult to investigate and resolve the matter.

However if there are exceptional circumstances, e.g. due to ill health then a complaint that is more than 12 months old may be considered.

5. Our complaints procedure

Our complaints procedure aims to provide a timely, simple and accessible process for resolving complaints. If a complaint cannot be resolved informally at first point of contact (see section 3) it will progress to a stage 1 of the complaints procedure. The complaints procedure consists of two stages. If a complainant is not satisfied at the end of stage 2, they have the right to contact the Local Government Ombudsman.

Stage 1

This is the first stage of the procedure. Complaints may be made in writing, in person, by telephone or online. Complaints are acknowledged within three working days.

An appropriate officer will investigate the complaint and will normally send a full response within 20 working days. The 20 working days start from the date the council receives the complaint.

Where matters are likely to take more time to investigate or resolve due to the complexity of the complaint, the investigating officer will keep the complainant informed of progress throughout the 20 working day time frame, and until the matter is dealt with.

Teams are expected to be mindful of complaints being submitted by email or by letter direct to a named officer whilst they are on leave/sick. Teams need to ensure that there are adequate arrangements in place for such complaints to be dealt with in accordance with this policy.

How to respond to a complaint at stage 1

- For full guidance on what to do if you receive a complaint – either directly from a customer or from a complaints coordinator, [download our handy checklist](#).
- To help you respond to a complaint, we have put together a [letter template](#).

Stage 2

If the complainant is not satisfied with the stage 1 investigation and outcome, they may request that the complaint progresses to stage 2.

To progress to a stage 2 complaint, we encourage complainants to contact us within 20 working days after receiving their stage 1 response (please see letter template above). This is to ensure that staff involved have all of the information readily available and that the complaint remains fresh in their mind to assist the investigating officer. However if this timescale is not met it, the complaint will still be investigated.

At this point the complaint is passed to the chief executive who will appoint an independent head of service or director to investigate. The complainant will be advised of this within three working days.

The independent investigator will seek to speak to the complainant in the early part of their investigation, in order to scope the review of the complaint. They will also speak to the officer who handled stage 1 of the complaint.

The investigator will prepare a report on their findings for the chief executive and a draft response to the complainant.

The chief executive will send a response within 20 working days, except where matters are likely to take more time to investigate or resolve due to the complexity of the complaint. Where this applies the investigating officer will keep the complainant informed of progress within the 20 working day time frame and until the matter is dealt with.

Please note: If the complaint includes the chief executive it will be passed to a director who has no involvement in the subject of the complaint and the council's monitoring officer. If the complaint is of a very serious nature then an external investigator may be brought in or the complaint referred direct to the ombudsman.

How to respond to a complaint at stage 2

- For full guidance on what to do if you receive a follow-up complaint, or are asked to respond to a stage 2 complaint by the chief executive, [download our handy checklist](#).
- To help you respond to a complaint, we have put together a [letter template](#) and [report to the chief executive template](#).

6. Outcomes

We recognise that, in general, people make complaints when they feel aggrieved about their treatment, and the council will recognise that when reviewing the complaint. There are three possible findings from a review of a complaint:

- Complaint not upheld
- Complaint partly upheld
- Complaint upheld

7. Remedies

If a complaint is partly or fully upheld, the council will consider a number of remedies, or combination of remedies. Remedies need to be proportionate, appropriate, deliverable and reasonable. The most appropriate remedy will be determined on a case-by-case basis. These may include:

- An apology
- The review of policies and practices to minimise the risk of a similar occurrence
- The refund of fees if a complaint about a paid-for service has been upheld
- Remedial action to correct the consequences of the fault
- In-kind compensation - this might include the supply of services or facilities free of charge or at a reduced rate
- Financial compensation – this should be assessed on the basis of calculable loss to the complainant

Apology - where fault has been acknowledged an apology should be issued. This can be done in person or in writing, but must be made directly to the person affected. It should not minimise or express any doubt about what happened, it must accept responsibility for the fault and acknowledge the impact this had on the complainant. It should also include an assurance that the same fault will not happen again and what steps have been taken to ensure this.

Review of policy and procedure - a remedy may include a review of procedures or policies and the outcome of the review should be shared with the complainant. It may be the case that the policy or procedure was not applied or incorrectly applied by staff, in which case the remedy may involve staff training.

Refund of fees - it might be appropriate to refund all or part of the fee charged for the provision of a service where the council acknowledges that the service was not to a satisfactory standard.

Remedial actions - practical action may provide all or part of a suitable remedy. When the complaint stems from failure to take some specific action, taking that action as quickly as possible may be a straightforward remedy.

In-kind compensation - it might be appropriate to offer an in-kind compensation offer where the council acknowledges that the service – which might have been provided for free or for a fee - was not to a satisfactory standard.

Financial compensation - financial compensation may be considered where there is a demonstrable financial loss to the complainant. However, before any offer is made, the insurance officer must be consulted to assess whether the council has insurance cover for such a scenario.

8. Confidentiality and GDPR

All complaints will be treated in confidence. Information will only be shared with those parties involved in resolving the complaint, unless permission is given by the complainant to share details.

9. Local Government Ombudsman

If all stages of the complaints procedure have been completed and the complainant is still unhappy with the outcome, they can complain to the Local Government Ombudsman who will carry out an independent investigation of the complaint.

The Local Government Ombudsman will expect the complainant to have exhausted the council's internal complaints procedure before approaching them.

Complaints to the ombudsman should be made within 12 months of the affected person becoming aware of the matters that gave rise to the complaint, although there may be circumstances where this may be extended.

10. Compliments

Any compliments received will be fed back to the staff concerned and included in reports to the council's Leadership Team. We will consider the acknowledgement of formal compliments on a case-by-case basis. Acknowledgements may be verbal or in writing.

11. Monitoring our performance and how well we respond

Complaints are recorded on the council's performance management system - Pentana - and six monthly reports are considered by the council's leadership team. An annual ombudsman report is also considered by leadership team.

12. Our related policies and procedures

- **Grievance policy**
(<https://brian.lichfielddc.gov.uk/Departments/HRServices/HR%20Services%20Document%20library/Grievance%20Policy.docx>)
- **Whistleblowing policy**
(<https://brian.lichfielddc.gov.uk/Departments/audit%20and%20fraud/Audit%20%20fraud%20document%20library/Whistleblowing%20policy.pdf>)
- **National Fluency Duty Code of Practice**
(https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/573013/english_language_requirement_public_sector_workers_code_of_practice_2016.pdf)

13. About unreasonably persistent complainants & unreasonable complainant behaviour

There are a minority of complainants that pursue their complaints in a way that can either impede the investigation of their complaint or that can have significant and disproportionate resource issues or are vexatious/malicious. These actions can occur during or subsequent to an investigation.

We will not tolerate deceitful, abusive, offensive, threatening or other forms of unacceptable behaviour from complainants. When it occurs, we will take proportionate action to protect the wellbeing of our staff and the integrity of our processes.

There is however a need to differentiate between 'persistent complainants' and 'unreasonably persistent complainants'.

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 someone being regarded as an unreasonably persistent complainant. 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 labeled unreasonably persistent.

This policy should only be used in exceptional circumstances after all reasonable measures have been taken to try to resolve complaints.

Actions and behaviours of unreasonable and unreasonably persistent complainants

The council considers the following as examples of unreasonable and unreasonably persistent behaviours:

- Refusing to specify the grounds of a complaint, despite offers of assistance with this from the authority's staff.
- Refusing to cooperate with the complaints investigation process while still wishing their complaint to be resolved.
- Refusing to accept that issues are not within the remit of a complaints procedure despite having been provided with information about the procedure's scope.
- Insisting on the complaint being dealt with in ways which are incompatible with the adopted complaints procedure or with good practice.
- Making what appear to be groundless complaints about the staff dealing with the complaints, and seeking to have them replaced.
- Changing the basis of the complaint as the investigation proceeds and/or denying statements he or she made at an earlier stage.
- Introducing trivial or irrelevant new information which the complainant expects to be taken into account and commented on, or raising large numbers of detailed but unimportant questions and insisting they are all fully answered.
- Recording meetings and conversations without the prior knowledge and consent of the other persons involved.
- Adopting a 'scattergun' approach - pursuing a complaint or complaints with the authority and, at the same time, with a Member of Parliament/a councillor/the authority's independent auditor/the Standards Board/local police/solicitors/the ombudsman.

Making unnecessarily excessive demands on the time and resources of staff whilst a complaint is being looked into, by for example excessive telephoning or sending emails to numerous council staff, writing lengthy complex letters every few days and expecting immediate responses.

- Submitting repeat complaints, after complaints processes have been completed, essentially about the same issues, with additions/variations which the complainant insists make these 'new' complaints which should be put through the full complaints procedure.
- Refusing to accept the decision – repeatedly arguing the point and complaining about the decision.
- Combinations of some or all of the above.

Our approach to unreasonably persistent complainants and unreasonable complainant behaviour

In most instances when we consider someone's behaviour is unreasonable we will explain why and ask them to change it. We will also warn them that, if the behaviour continues, we may take action to restrict their contact with our offices.

Where the behaviour is so extreme that it threatens the immediate safety and welfare of our staff we may report the matter to the police or consider taking legal action. In such cases, we may not give the complainant prior warning.

Ensuring an appropriate and proportionate response

Any action taken should be both appropriate and proportionate to the nature and frequency of the complainants contacts with the council.

Response options – during a complaint

The following is a list of possible options from which one or more may be chosen and applied if warranted. There should be sufficient evidence available to justify any action applied.

- Placing time limits on telephone conversations and personal contact with the complainant
- Restricting the number of telephone calls that will be taken (e.g. one call on one specified morning or afternoon of any week)
- Requiring contact to take place with one named member of staff
- 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
- Requiring any telephone contacts/meetings to be recorded
- Managing contact with the help of an independent advocate
- Requiring the complainant to enter into an agreement about their future behaviour before their case proceeds
- Once a decision has been made in relation to a complaint, refusing to process further complaints about the same process.

Restricting access to services

In certain circumstances, a decision may be made to restrict access to services during the course of a complaint investigation – this decision will be made by a director. They will record the reason for their decision and explain it to the person concerned. They will state how long any restriction will apply for before it is reconsidered.

Other suitable options may be considered in the light of the complainant's circumstances. Our objective is to complete consideration of the complaint on its merits in a managed way.

Termination of complaint investigation

If a complainant continues to behave unreasonably or overrides any restrictions placed on access to our services, we may decide to end contact with them and end any investigation into their complaint.

Designating an individual as an unreasonable or unreasonably persistent complainant

Deciding to designate someone as being unreasonable or unreasonably persistent could have serious consequences for the individual. This decision should be taken by the monitoring officer and director.

If any of these are the subject of the complaint, then a staff member at a similar grade should lead the process.

Before deciding whether the policy should be applied the following conditions should be satisfied:

- 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
- 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 of further action might include:

- If no meeting has taken place between the complainant and an officer/officers, and provided that the authority 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, consider setting up a strategy meeting to agree a cross-departmental approach and designating a key officer to co-ordinate the authority's response(s).
- If the complainant has particular needs, an advocate might be helpful to both parties - consider offering to help the complainant find an independent one.

Informing the complainant

Before deciding to designate someone as being unreasonable or unreasonably persistent, the complainant will be advised that if his/her actions continue the council may decide to treat him/her as an unreasonably persistent complainant, and given an explanation as to why.

If a decision is taken to apply this policy, the complainant will be written to and informed that:

- The decision has been taken
- What it means for his or her contacts with the authority
- How long any restrictions will last
- What the complainant can do to have the decision reviewed

Reviewing unreasonable or unreasonably persistent complainants

All restrictions must be kept under regular review and checked every six months from the date of decision. The review should be carried out by an officer senior to the one that made the original decision.

- If no contact has been received from the complainant, then a decision should be taken on whether any restrictions should be cancelled and the outcome of this review recorded.
- If the decision to remove the restrictions is made, consideration must be given to their reintroduction, should the behaviour which led to their introduction begin again.

When a review is carried out the complainant should be advised of the outcome and, if restrictions are to continue to be applied, when these will be reviewed again.

If an unreasonably persistent complainant makes a complaint about a new issue, this should be treated on its own merit, and a decision should be taken on whether any restrictions that have been previously applied are still appropriate and necessary the monitoring officer and director who make the original decision.

Referring unreasonably persistent complainants to the ombudsman

In rare instances relations between the authority and the complainant may break down badly while the complaint is under investigation and there is little possibility of achieving a satisfactory outcome.

In this circumstance there is little point in following through all stages of the council's complaints procedure. Where this occurs the ombudsman may be prepared to consider the complaint before the complaints procedure has been exhausted.

ENDS