

HARTLEPOOL BOROUGH COUNCIL COMPLAINTS & COMMENTS PROCEDURE

1. THE STRUCTURE OF THE COMPLAINTS SYSTEM

1.1 The general structure of the system for dealing with complaints is as follows:

- Each department has its own complaints system tailored to its own needs and statutory requirements;
- All departmental systems are based on a set of guidelines, common to the whole authority, to ensure consistency of treatment for all service users. A number of basic authority-wide procedures, e.g. for the handling of complaints about elected members, apply to all departments;
- The Chief Executive's Department (Corporate Strategy Section) is responsible for co-ordinating and monitoring the authority's complaints procedures and will report the authority's overall performance on complaints to elected members.

1.2 Authority-wide procedures and principles which apply to all departments are set out in Section 2 below.

2. AUTHORITY-WIDE PROCEDURES/DEFINITIONS

2.1 Definition of a complaint

This authority's definition of a complaint is that used by the Local Government Ombudsman:

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

2.2 Exclusions from the Procedure

There are various circumstances in which it would not be appropriate to use a general complaints procedure, since specific arrangements already exist to deal with the matter in question. The exclusions are listed below. It will not always be immediately obvious that a complaint falls into one of these categories, but as soon as it becomes so, the complainant should be informed and advised about how to proceed.

- Matters for which there is a right of appeal - an appeal within the council or to an independent tribunal - or where there is a legal remedy, e.g. appeal against a decision on eligibility for housing benefit or an equal opportunities appeal against a decision not to employ a job applicant;

- Matters which are likely to be the subject of civil proceedings, a police investigation or disciplinary proceedings, e.g. a compensation claim against the council, accusations of financial impropriety or criminal behaviour.
- Complaints by staff or former staff regarding a matter arising out of their employment.
- Requests for service, e.g. reporting a street light which needs attention or a making a complaint about a barking dog for the first time;
- Requests for information or explanation of council policy or practice.

If the complaint does not fall within the remit of the Complaints and Comments Procedure, complainants should, where possible, be advised where to direct their complaints (e.g. district auditor, the police, the Ombudsman, appeal to a tribunal etc.)

2.3 Complaints about Council Approved Policy and Practice

Complaints about the council's policies and about decisions made by elected members do not fall within the remit of a complaints procedure that is related to services administered by officers of the council. However complaints are sometimes made to officers about decisions made by the council and its decision making bodies. These should be recorded and forwarded to the relevant portfolio holder or committee chair and the complainant informed that this has been done. The portfolio holder may wish to respond to the complaint.

2.4 Complaints about Elected Members, including the Mayor

a) Complaints of breach of the Code of Conduct

All complaints alleging a member's breach of the Councillor's Code of Conduct must be referred to the Standards Board for England to be dealt with according to its procedures. Such complaints may be made to the Monitoring Officer (Chief Solicitor) or direct to the Standards Board for England (www.standardsboard.co.uk). The Monitoring Officer will be available to offer advice to officers and complainants in this respect. In the absence of the Monitoring Officer or where the Monitoring Officer has a conflict of interest, the Deputy Monitoring Officer (The Legal Services Manager) will carry out this role.

Regulations enable the Standards Board to refer a complaint to the local Monitoring Officer at any point for:

- The Monitoring Officer to investigate the complaint or;
- The local Standards Committee to determine whether there has been a breach of the Code of Conduct and, if so, the sanction to be imposed, or;
- Both local investigation and determination.

b) Complaints other than of breach of the Code of Conduct

All other complaints about elected members must also be reported to the authority's Monitoring Officer. Complaints about elected members will be dealt with, initially, by

the Chief Executive who will decide whether or not they should be pursued and by whom. If pursued:

- complaints involving accusations of impropriety will be dealt with through existing mechanisms set up to specifically deal with such matters, such as the Council's Standards Committee or, where appropriate, the Police;
- complaints about the behaviour of elected members, e.g. failure to provide promised assistance, offensive behaviour etc., will generally be referred either to the political party organisations, where applicable, or, at the Chief Executive's discretion, to the Standards Committee.

In dealing with a complaint internally, the full range of sanction open to the Standards Board is not available to the Council. For example, the Council cannot disqualify a member from membership nor suspend them from membership of the Council. It can however cancel appointments made by the Council, such as chairmanship or membership of a committee.

c) Where it is uncertain whether a complaint is within a) or b).

Where there is any doubt whether a complaint is intended to be a complaint of breach of the Code of Conduct or a complaint which may be dealt with internally, the Monitoring Officer will make a decision (after communicating with the complainant and/or the Standards Board, where appropriate) to determine whether or not the complaint should be referred to the Standards Board under a) or referred to the Chief Executive under b).

N.B. The Code of Conduct for Councillors and Co-opted Members is published in the Council's Constitution, Part 5 – Codes and Protocols. This is available on the Council's website, the Intranet or, if a paper copy is required, from the Democratic Services Team, Corporate Strategy Division, Chief Executive's Department.

2.5 Complaints about the Chief Executive or Departmental Directors

- Formal complaints about the Chief Executive will be referred to the council's Monitoring Officer, the Chief Solicitor, for investigation;
- Formal complaints about departmental directors will be referred directly to the Chief Executive for investigation.

2.6 Complaints Made Directly to the Chief Executive

- Initial complaints made by members of the public directly to the Chief Executive will be forwarded to the appropriate department/division's nominated officer to be investigated according to the department's complaints procedure;
- If a complainant has already complained to a department and feels that they have not received a satisfactory response, the case will be referred to the director of the department/head of service to double check that the complaints procedure has been properly and fully administered and that, if appropriate, the complainant has been offered the opportunity to appeal to elected members. If this is the case, the complainant will be informed of their right to complain to the Local Government Ombudsman.

2.7 Monitoring and Reporting of Complaints Performance

All departments will report quarterly to the Chief Executive on the complaints received in the previous 3 months. The reports will include:

- the number and type of complaints received;
- the outcome of the complaints;
- the number settled within departmental deadlines;
- reasons for going over deadlines;
- actions arising/lessons learnt.

A quarterly report will be made to members on complaints performance. An annual, publicly available report is required to comply with national guidelines on good practice and will be subject to audit.

2.8 Common Complaints & Comments Form

A common complaints and comments leaflet and form should be made available to members of the public which is equally applicable in all circumstances/for all departments. This is intended as a mechanism for getting complaints and comments into the system easily and, therefore complements rather than replaces other departmental paperwork. A common equality form should also be used. (See Appendix 1 for copies of leaflet and forms) The leaflet and forms should be available in alternative formats, e.g. community languages, Braille, large print etc. Copies can be obtained from the Corporate Complaints Officer.

2.9 Corporate Complaints Officer

The Corporate Complaints Officer will:

- co-ordinate and monitor the authority's complaints procedures to ensure that all members of the public who wish to complain receive a similar, high level of service;
- re-direct to relevant departments any complaints received centrally;
- collect and collate quarterly returns from departments;
- report complaints performance to elected members;
- support and advise departments involved in complaints appeal hearings;
- co-ordinate the authority's responses to complaints being investigated by the Local Government Ombudsman;
- monitor complainants' satisfaction with how their complaints are dealt with.
- Collection of equality monitoring data

3. GUIDELINES FOR ALL H.B.C. COMPLAINTS & COMMENTS PROCEDURES

COMPLAINTS

- 3.1 An initial attempt should always be made to settle the complaint straightaway without recourse to the formal complaints system, e.g. by arranging for something to be done. The majority of complaints should be resolved in this way.
- 3.2 The authority has a contract with UNITE, a community mediation service, to carry out independent mediation work, e.g. in neighbour dispute cases. There may be complaint cases where this service is suitable and useful, if the person complaining would like to follow that route.
- 3.3 Officers should be aware of, and sensitive to, the special needs of people with disabilities, people whose first language is not English and people with literacy problems and be equipped to deal with these service users. Consideration should be given to putting people in touch with a suitable agency (e.g. CAB or an advocacy service) which can help them during the complaints process. Council employees have access to the Language Line service which is a telephone interpretation service for use by visitors to Council premises. Information on translation and interpretation services are available on the Intranet under "Diversity".
- 3.4 The complaints procedure should be publicised and readily available to members of the public. Efforts should be made to ensure that all those who might wish to complain are given the opportunity, and where necessary, assistance to complain. Leaflets/forms should be placed in all reception areas, service points. Workers in regular contact with the public away from service points should be supplied with leaflets/forms and, if necessary, information on how to help people make a complaint.

Formal Complaints

- 3.5 If a complaint cannot be resolved informally, all complainants should be given the opportunity to make a formal complaint and must be informed of the complaints procedure. The complaints leaflet has a brief outline of the complaints procedure. A complaint becomes a formal complaint when the person remains dissatisfied with the service they have received and wish to take their complaint further.
- 3.6 Formal complaints can be made initially in writing, by phone, in person or through a third party, e.g. a relative, friend or councillor. (NB Third party complaints can only be accepted if the complainant has consented to the complaint being made on their behalf) A complaint does **not** have to be made on an official complaint form by the complainant to be treated as a formal complaint. However, a formal complaint should be recorded in the department's complaints system on a standard complaints form. Some departments may, for operational purposes, also wish to keep a record of complaints that are settled without a formal complaint being lodged (as discussed at 3.1), but these should be recorded separately.

Timescales

- 3.7 Departments must set a deadline for responding to complaints, preferably 15 working days. Complainants must be informed, in writing, within 5 working days of making their complaint, as to who will be dealing with the complaint and when they can expect to get an answer. If the deadline is not going to be met, complainants must

be informed of the reasons for the delay and given a new deadline. A copy of the complaints leaflet should accompany this letter.

- 3.8 All complainants who register a formal complaint should receive a copy of the Equal Opportunities Monitoring Form and a pre-paid envelope for its return. It is recommended that this accompany the written acknowledgement of the complaint. To enable the forms to be used for monitoring purposes, departments should ensure that the unique complaint serial number is on the form before it is sent out.

Complaints Officers

- 3.9 All departments/divisions should nominate a senior officer who is responsible for co-ordinating the handling of complaints and ensuring that the department's procedure is properly followed. Whilst it need not be the responsibility of the nominated officer to undertake all complaints investigations, it is recommended that this officer reviews all responses to formal complaints before they are sent to the complainant. The officer investigating the complaint should not have been directly involved in the action or decision being complained of. (See Appendix 2 for Guidance on Good Investigative Practice)
- 3.10 The nominated officer will be responsible for making a quarterly complaints report to the Chief Executive. A quarterly report will be made to elected members.

Confidentiality

- 3.11 The identity of the person making a complaint should be made known only to those who need to consider the complaint and should not be revealed to any other person or made public by the Council. It may not be possible to preserve confidentiality in some circumstance, e.g. where relevant legislation applies or allegations are made which involve the conduct of third parties. Complainants should be advised about this, if it becomes necessary.

Support for staff

- 3.12 Employees who are the subject of a complaint should be informed that the complaint has been made, how the complaint will be investigated and what the outcome of any investigation is. If an investigative interview is necessary, the employee should, where possible, be given 2 days notice of the interview and they should be offered the option of being accompanied by a colleague or union representative. Support from the Employee Wellbeing Team may be appropriate.

Appeals

- 3.13 If a complainant is not satisfied with the outcome of the investigation of their complaint, they have the right to appeal against the outcome. It is recommended that appeals should be referred to the appropriate portfolio holder, who will review the documentation and decide whether or not the appeal should be heard by the General Purposes (Appeals) Committee (See Appendix 3 for Appeal Review by Elected Members). The Committee is chaired by the Vice Chair of the Council who will hear appeals with four other members selected from a rota of all members. Appeals Committee members will receive a briefing of procedures prior to involvement in any appeals hearing. (See Appendix 4 for Complaints Appeal Hearing Procedure)

N.B. The arrangements for appeals will necessarily vary from service to service, e.g. in the case of social care appeals for Adult and Community Services and Children's Services, appeals panels are required by law to have an independent chair.

At the end of a complaint

- 3.14 When a complaint has been investigated, all complainants should be informed of their right to complain to the Local Government Ombudsman (LGO) for an independent investigation of their complaint and should be given information on how to do this. The complainant has the right to complain to the LGO at any stage in the complaints procedure. However, in most cases, the Ombudsman's office ensures that the Council has a chance to answer the complaint before the LGO investigates it and refers complaints back to the Council for investigation through our own procedure.
- 3.15 Where a complaint has been upheld, the Council should always offer some type of remedy for it. This may range from an apology and a promise to avoid similar problems in the future to, in a very small number of cases, financial compensation. (See Appendix 5 for Remedies for Complaints)
- 3.16 The authority aims to learn from complaints and complaints officers will be asked to report on lessons learnt from complaints and action taken to prevent a recurrence of the problem.

Complaints outside the procedure

- 3.17 In cases where the departmental complaints procedure is not appropriate e.g. where case law absolves local authorities of responsibility, where the complainant has recourse through the civil courts, or where the matter is likely to be the subject of a police investigation, the complaints procedure should not be set in action. Complainants should be informed of the legal situation and told that the complaints procedure cannot be used in their case. Where appropriate, they should be informed of the correct way to appeal/take their case further.
- 3.18 Complaints should be made within 12 months of the original problem occurring. In certain circumstances this time limit may be extended, e.g. the complainant did not find out that the Council was responsible for creating a particular problem until after the 12 months time limit.

COMMENTS & COMPLIMENTS

- 3.19 Comments and compliments should be dealt with promptly. Appropriate responses to suggestions and comments should be made by departments. Compliments should be gratefully acknowledged, where appropriate, and shared with the officers concerned. Departments may wish to record and report on comments and compliments within their departments to help improve the management of services.

4

How to take it further (cont)

We will make every effort to deal with your complaint to your satisfaction. If we are not able to do this, you can ask the Commission for Local Administration (the Ombudsman) to make an independent investigation of your case.

The Ombudsman is: Patricia Thomas, Local Government Ombudsman, Beverly House, 17 Shipton Road, York, YO30 5FZ. Phone: 01904 380200, fax: 01904 380269, e-mail: lgo.org.uk.

Complaining to your local Councillor

If you have a complaint about the policies of the Council, for example, how the Council has chosen to spend its budget, or about any decisions that have been made by a Councillor, it is best to complain to a Councillor. You can contact them at their local ward surgeries as advertised in the Hartlepool Mail or by writing to them at the Civic Centre. You can also complain to your Councillor about any of the Council's activities or services. They will pass on your complaints to the correct department.

Comments and Compliments

We would also like to hear from you if you think we're doing something well or have any suggestions for ways we can improve. You can tell us using the same methods as making a complaint.

This document is also available in other languages, large print and audio format, on request: ☎ 01429 523041.

अनुरोध पर यह दस्तावेज़ अन्य भाषाओं में, बड़े अक्षरों की छपाई और सुनने वाले माध्यम पर भी उपलब्ध है

درخواست پر یہ دستاویز دیگر زبانوں میں، بڑے حروف کی چھپائی اور سننے والے ذرائع پر بھی میسر ہے۔

এই ডকুমেন্ট অন্য ভাষায়, বড় প্রিন্ট আকারে এবং অডিও টেপ আকারেও অনুরোধে পাওয়া যায়।

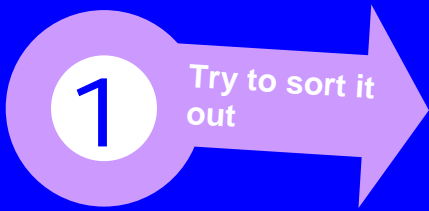
本文件也可应要求，制作成其它语文或特大字体版本，也可制作成录音带。

ئەم بەلگەییە ھەرۆھە بە زمانەکانی کە، بە چاپی درشت و بە شریتی تەسجیل دەس دەکەوێت

Bu belge çeşitli dillere çevrilmiş olup, isterseniz iri harflerle basılmış şeklini ve kasetini de size gönderebiliriz.



Complaints, Comments and Compliments



Hartlepool Borough Council aims to provide high quality services that meet the needs of local people. We want to make our services as efficient and effective as possible. To do this we need to know whether we're getting it right and how we can improve services for you.

If you are not satisfied with a service, tell us why not and what we can do to improve things. If you think we are doing things well, we'd like to hear about that too. And we'd be interested to hear any suggestions you have for making service even better.

This leaflet takes you through the five stages of making a complaint.



First of all, talk to the staff who run the service you are concerned about. Contact the office you have been dealing with or ring the Civic Centre (01429 266522) and they will put you through to the right department. The person you contact will do everything they can to sort out your problem as quickly as possible. You can complain yourself or on behalf of someone who cannot complain for themselves.



If you are dissatisfied with how your complaint has been dealt with you can take it further by making what is known as a formal complaint. You can make your

complaint in the following ways:-

- In writing, on the attached form
- Over the phone
- In a letter
- Email us at customer.comments@hartlepool.gov.uk
- In person at a Council office
- On-line at www.hartlepool.gov.uk/complaints

Complete and return the attached form, giving as much detail as you can. Your complaint will be directed to the appropriate Department within the Council



Your complaint will be investigated by a senior officer of the department concerned, who will write to you within 5 days and let you know who is dealing with your complaint and how long it will take. We will aim to give you a full written answer to your complaint within 15 working days of receiving your complaint. If it's going to take longer than 15 days we will let you know when you can expect a reply.

If your complaint is not covered by the Council's complaint procedure, we will let you know and advise you as to who might be able to help you.



If you are still dissatisfied with how your complaint has been handled, you can ask to have your complaint reviewed. If you ask for a review, the Portfolio Holder responsible (a Councillor who is part of the Cabinet) will look at all the information connected with your complaint. He/she will decide whether or not your complaint should be considered by a committee of 5 Councillors.

If your complaint is to be considered further you will be invited to the meeting to discuss why you are dissatisfied with the way your complaint has been handled. If you would like your complaint reviewed please put this in writing to the Director or Head of the service you have complained about and send it to Hartlepool Connect. (address over page)

Complaint Number

Complaint Form

Use this form to tell us about your complaint, please give as much detail as you can including, when it occurred, what happened, and why you are dissatisfied etc.

Your Name

Your Address

Your Daytime Telephone Number

If you are completing this form on behalf of someone else, please give the name and address of that person and their relationship to you.

Name

Your Address

Relationship to you

What is your complaint?

What would you like us to do now?

Have you made this complaint before?

Yes

No

If yes when did you complain to us?

Signature

Date

Please fold and return this postcard, postage is paid so you don't need a stamp. Your complaint will be investigated and you can expect to receive an acknowledgement of receipt of your complaint within 5 Working days and a full response within 15 working days.

BUSINESS REPLY SERVICE
Licence No NEA5948

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Hartlepool Connect
Hartlepool Borough Council
Civic Centre
Victoria Road
TS24 8 AY



EQUAL OPPORTUNITIES MONITORING OF THE COMPLAINTS PROCEDURE

We want to find out if we are giving as good a service as we can do to all complainants. To help us do this, please fill in this form and send it to us. **The information you give us will not affect the way in which your complaint is handled.** This information will only be used to make sure that the complaints procedure is working properly.

PLEASE TICK THE BOXES THAT APPLY TO YOU

1. Which of the following best describes you?

<p>White</p> <p>- British <input type="checkbox"/></p> <p>- Irish <input type="checkbox"/></p> <p>- other white background <input type="checkbox"/></p> <p>Mixed</p> <p>- white and black Caribbean <input type="checkbox"/></p> <p>- white and black African <input type="checkbox"/></p> <p>- white and Asian <input type="checkbox"/></p> <p>- other mixed background <input type="checkbox"/></p> <p>Chinese <input type="checkbox"/></p>	<p>Black or Black British</p> <p>- Caribbean <input type="checkbox"/></p> <p>- African <input type="checkbox"/></p> <p>- other black background <input type="checkbox"/></p> <p>Asian or Asian British</p> <p>- Indian <input type="checkbox"/></p> <p>- Pakistani <input type="checkbox"/></p> <p>- Bangladeshi <input type="checkbox"/></p> <p>- other Asian background <input type="checkbox"/></p> <p>Other ethnic group <input type="checkbox"/></p>
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2. Sex Male Female

3. Do you consider yourself to have a disability? Yes No

4. How old are you?

Under 16 years <input type="checkbox"/>	16 to 25 years <input type="checkbox"/>	26 to 35 years <input type="checkbox"/>	
36 to 45 years <input type="checkbox"/>	46 to 55 years <input type="checkbox"/>	56 to 65 years <input type="checkbox"/>	
66 years and over <input type="checkbox"/>			

When you have filled in this form, please return it in the freepost envelope provided to: Hartlepool Borough Council, Civic Centre, Hartlepool TS24 8AY.

GUIDELINES FOR GOOD INVESTIGATIVE PRACTICE

1. Introduction

- 1.1 The majority of complaints are likely to be dealt with speedily and simply. For cases where a more substantial inquiry is required, these notes are intended as guidance for investigating officers.

2. The Complaint

- 2.1 Check if there are any previous complaints from this person.
- 2.2 Make sure that you have a clear account of the complaint. It may be necessary to arrange for a meeting or telephone conversation with the complainant. (See Section 4 on Interviews for guidance on preparing for and carrying out interviews)
- 2.3 Set out in writing your understanding of the complaint and, if necessary, provide a copy for the complainant. This may be necessary in cases where, for example, the complainant has registered their complaint in person or over the phone and gives the complainant an opportunity to amend your description of the complaint if they wish
- 2.4 Clarify the outcome sought by the complainant.
- 2.5 Check whether the complainant needs support of any kind, or has poor sight or hearing, or a language difficulty, and check what help the complainant needs so as to be able to understand the discussion properly.
- 2.6 Make sure that the complainant is informed about the investigation procedure and if necessary, provide them with a copy of the complaints leaflet.

3. The Investigation

- 3.1 Brief yourself on the relevant legal, policy and administrative background to the complaint.
- 3.2 Assess whether the complaints procedure is the most appropriate way of handling this complaint. Consider possible alternative procedures, for example:
- an appeal to a tribunal;
 - a complaint to the Standards Board for England
 - legal action; or
 - police involvement.

Discuss the alternatives with the complainant as appropriate. As consideration of the complaint proceeds, the question of whether the complaints procedure is the appropriate mechanism should be reviewed as necessary. Consult with the Chief Solicitor and/or the Corporate Complaints Officer if you are in any doubt.

- 3.3 Consider whether the complaint could be resolved without further investigation.
- 3.4 If the complaint is about a proposed action of the council, consider whether the action should be deferred while the complaint is investigated.
- 3.5 Obtain all relevant documents (ensuring that you see the originals, not copies). These may include files, logbooks and time sheets. Get copies of all the documents you need. Complaints files should be securely stored and should not be kept longer than is necessary.
- 3.6 If appropriate, consider whether it would be worthwhile making an unannounced visit to the establishment complained about to check normal practices.
- 3.7 Establish the relevant sequence of events from the files and also the names of the officers/members most directly involved in the matters complained of. Decide which, if any, of these people you need to interview.

4. Interviews

- 4.1 Prepare the line of questioning for each person to be interviewed:
 - use open, not leading, questions;
 - do not express opinions in words or in your body language; and
 - ask single, not multiple, questions.
- 4.2 Arrange the order of interviews so that, where you need to establish what procedure are normally followed, you do this first with more senior officers and end with the officers most directly involved in the matters complained of.
- 4.3 Inform all those to be interviewed that they can be accompanied by a friend or union representative, provided the friend is not the supervisor of the interviewee. Explain the complaint clearly to them.
- 4.4 Consider whether you need a witness to an interview that may be particularly difficult.
- 4.5 Interviews should be conducted in an informal and relaxed manner, but persist with your questions, if necessary. Do not be afraid to ask the same question twice. Make notes of each answer given.
- 4.6 Try to separate hearsay evidence from fact by asking interviewees how they know a particular fact.
- 4.7 Deal with conflicts of evidence by seeking corroborative evidence. If this is not available, then as an exceptional measure, consideration can be given to organising a meeting between the conflicting witnesses.
- 4.8 At the end of the interview, summarise the main points covered and ask if the interviewee has anything to add.

- 4.9 Make a formal record of the interview from your written notes as soon as possible after the interview, while your memory is still fresh. Never leave it longer than the next day.

5. Reporting on the Investigation

- 5.1 Complainants should be informed in the initial, written acknowledgement of their complaint when they should expect to hear the outcome of the investigation. If this original deadline is not going to be met, complainants should be kept informed of the progress of their complaint. They should be informed of the reason for the delay and given a revised date for the completion of the investigation.
- 5.2 Write a report/response letter setting out the evidence obtained, adding your conclusions as to whether it was upheld in part or not upheld. Where appropriate, suggest a remedy (See Appendix 4). Circulate the report to all those interviewed and to the complainant. Offer the complainant the opportunity to have their complaint reviewed by elected members, if they are dissatisfied with the outcome, and remind them that they may complain to the Local Government Ombudsman at any time if they wish.
- 5.3 Where an investigation has been particularly complex, e.g. where a number of people have been interviewed, you may wish to consider writing a draft report setting out the evidence obtained. This could be circulated for comment to all those interviewed, including the complainant, unless there are special reasons not to do so. This can help ensure that your account of events and understanding of the case is as accurate as possible.
- 5.4 Having considered any comments received the report would be amended as necessary adding conclusions and, if appropriate, a suggested remedy for the complainant. The report should consider any lessons to be learnt from the complaint and what changes should be made or considered to procedures, systems etc. This final report would then be sent out to all those interviewed. Offer the complainant the opportunity to have their complaint reviewed by elected members, if they are dissatisfied with the outcome, and remind them that they may complain to the Local Government Ombudsman at any time if they wish.

HARTLEPOOL BOROUGH COUNCIL COMPLAINTS PROCEDURE

APPEAL REVIEW BY ELECTED MEMBERS

1. When is a complaint reviewed by elected members?

If the person complaining is not satisfied with the outcome of the investigation of their complaint, they have the right to appeal. When they receive the letter from the authority informing them of the outcome of the investigation, they are told of their right to have their complaint reviewed by a senior elected member and asked to inform the department concerned within 15 working days if they wish a review to be done.

2. How is the review done?

The chief officer/director is informed of the request for a review and will arrange for it to take place within 10 working days of the request being received.

Complaints reviews will usually be the duty of the relevant portfolio holder. The portfolio holder will review the documentation and decide whether or not the appeal should be heard by the General Purposes (Appeals) Committee.

Documentation should include the original complaint, any subsequent correspondence from the complainant, the authority's written response to the complainant and a short covering report by the divisional complaints officer/chief officer. The director or chief officer concerned may wish to brief the portfolio holder, e.g. to provide information on the service being complained about.

The portfolio holder will determine whether or not the complaint has been dealt with properly and fairly, in accordance with the complaints procedure and the authority's policies. He/she may decide that a complaints appeal should be heard by the General Purposes (Appeals) Committee. Alternatively he/she may decide that it would serve no useful purpose to hold a meeting of the committee as the complaint has been fully and properly dealt with.

The complainant will be informed of the outcome of the review within 5 working days of the portfolio holder reviewing the information.

3. Why would members recommend that an appeal be heard by the General Purposes (Appeals) Committee?

Portfolio holders may consider that a committee hearing should be held if, on the basis of the information they have reviewed, there is a possibility that:

- the decision reached by the complaints investigation was not consistent with the circumstances of the case;

- the complainant has been treated unfairly or differently in similar circumstances to someone else;
- the authority has failed to put right, or acknowledge that it has made a mistake;
- the remedy offered to the complainant is not appropriate.

The types of cases that would not be considered by the committee include cases :

- which deal with matters where no case can be made that would cause members to make an exception to normal practice;
- where a person is complaining about a policy or decision of the council or central government, e.g. the rules for entitlement to council tax benefit;
- where new information has emerged. Such cases will normally be referred back to the department to see whether the original decision needs to be changed.

5. What happens next?

If the portfolio holder decides that a committee hearing would be appropriate, the department will contact the complainant offering them the opportunity to put their complaint before the committee. They have 15 working days to let the authority know whether or not they wish their complaint to be considered by the committee. If the complainant wants a hearing, the Democratic Services Team will arrange for a committee meeting to be held. The Democratic Services Team will notify the complainant of the date of the committee meeting within 10 working days of them registering their desire to appeal. They will send them information on the procedure for appeals hearings and copies of the complaint information that the committee members will receive, and will request the complainant to nominate any people, e.g. council staff or other witnesses, whom they feel could give useful information to the committee on the matter being complained about.

6. Who will make a decision about the appeal?

The committee which makes the decision about the appeal will be made up of the Vice-chair of the Council and 4 other members selected from a rota. The meeting will be serviced by a member of the Democratic Services team. The department/section complained against will be represented by a senior officer who will put the department's case and the complainant is given the opportunity to put their case and ask questions of people, such as council staff or other witnesses, who have been asked to attend by the committee.

HARTLEPOOL BOROUGH COUNCIL COMPLAINTS PROCEDURE

COMPLAINTS APPEAL HEARING PROCEDURE

1. Who will be at the hearing?

- There will be a committee of five councillors who will decide whether or not the complaint has been properly dealt with;
- The person making the complaint. The complainant may be accompanied by a representative or supporter. As the complaints hearing is not a legal hearing, representation by a solicitor is not appropriate;
- A senior officer from the department or section being complained about;
- Any members of the Council's staff or other witnesses who can give information on the matter complained about. They may be called by the senior officer or required to attend by the Committee;
- A Democratic Services officer will take notes of the meeting.
- In complex cases, an independent officer from the Chief Executive's Department may be asked to attend as an advisor to the panel.

2. Opening the hearing

The Chair of the committee will introduce all the people present and explain why each person is there. He/she will make sure that the complainant understands the procedure to be followed. (The complainant will already have received a copy of the procedure in advance of the meeting)

3. Listening to the complainant

- a. The person complaining, or their representative, will present their case. This will usually be a summary of why they originally complained and the reasons why they are dissatisfied with the way the complaint has been handled.
- b. The person complaining, or their representative, can question any relevant witnesses and/or give evidence in support of their case.
- c. The members of the committee may ask questions.
- d. The officer representing the department/section complained about may ask questions.

The person with the complaint may ask further questions of any witnesses, but only to clear up any points raised in earlier questioning.

4. Listening to the department

- a. The senior officer will present the department's case, outlining how the department dealt with the case;
- b. Any relevant witnesses can be called.
- c. The members of the committee may ask questions.
- d. The person making the complaint, or their representative, can question the senior officer or any of the witnesses.

The senior officer may ask further questions of any witnesses, but only to clear up any points raised in earlier questioning.

5. Summing up

The person complaining, or their representative, and the senior council officer have an opportunity to sum up the information that they have given to the committee, if they wish.

6. Closing the hearing

The hearing meeting will be closed by the Chairman of the committee, who will explain that the committee will consider all the information they have been given and will inform the complainant of their decision and the reasons for it within 5 working days. The council department involved will also be informed of the decision.

The complainant, the senior council officer and all witnesses will then leave the hearing, The committee members, attended by the Democratic Services Officer and the independent officer, if present, will then consider the case and reach a decision.

7. Reporting the decision of the committee

Within 5 working days of the hearing, Democratic Services Team will notify the complainant, the council department involved and the Corporate Complaints Officer, in writing, of the committee's decision and the reasons for that decision. The complainant will be informed of their right to complain to the Local Government Ombudsman if they are still dissatisfied with the way they have been dealt with.

REMEDIES FOR COMPLAINTS

1. Introduction

- 1.1 Where a complaint is upheld, the Council should always offer some type of remedy for it. An apology will normally be appropriate and other action may also be justified.
- 1.2 If the council is found to have been at fault, it will be necessary to consider whether it caused injustice to the complainant and, if so, what the injustice was.

2. Types of Action for Consideration

- 2.1 The general aim of a remedy is that, as far as possible, complainants should be put in the position they would have been in if things had not gone wrong. The remedy needs to be appropriate and proportionate to the injustice suffered by the complainant.
- 2.2 Possible remedies include:
 - an apology;
 - an clear explanation of what happened and why it happened;
 - an assurance that it will not happen again and that the situation will be monitored to ensure this;
 - action that can be taken to put things right, e.g. back dating of benefit claim or providing the service required by the complainant;
 - action that can be taken to mitigate the injustice if it cannot be put right, e.g. providing specialist equipment or additional tuition for a child whose education has been adversely affected by maladministration in assessing for special educational need;
 - financial compensation, where appropriate.

3. Financial Compensation

- 3.1 Financial remedies may be appropriate in a very small proportion of cases, such as where the complainant's legal rights have been infringed. If a person has been put to unnecessary expense as a result of the council's actions, the Council may wish to recompense them. Each case will need to be judged on its merits.
- 3.2 Cases where significant compensation is being requested or considered and those where compensation is being considered for distress or worry caused by the Council, will be decided on by the chief officer or director concerned, in consultation with the Corporate Complaints Officer, the Chief Solicitor and, where appropriate, elected members.
- 3.3 The General Purposes Committee has been delegated the powers to determine payments or other benefits to individuals under Section 92 of the Local Government Act 2000.

- 3.4 Chief Officers have been delegated the power to determine payments or other benefits to individuals, in consultation with the Monitoring Officer, under Section 92 of the Local Government Act 2000, to a maximum of £1,000.

4. Reviews

- 4.1 If a complaint is upheld, the council should, as a matter of routine, consider whether there is a need for a change in procedures or whether there are some lessons to be learnt which may have wider application.

5. Timescales

- 5.1 The department(s) dealing with the complaint should specify, and adhere to, a timescale within which the remedy will be implemented.

N.B Further advice on remedies and information on how they are dealt with by the Local Government Ombudsman is available in "Remedies – Guidance on Good Practice 6", Commission for Local Administration, February 2005 (LGO 307 (02.05)).
Website: www.lgo.org.uk

LETTER TEMPLATES

These letters are provided as guidance only, as examples of how complaints correspondence can be handled.

- a. Acknowledgement of a complaint
- b. Response to a complaint/report of a complaint investigation

ACKNOWLEDGEMENT LETTER – Suggested format

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT*type of complaint*.....

Thank you for your letter/phone call/visit/e-mail of (*date*) to explain your complaint about*subject of complaint*.....

(I enclose a note of the information you provided/copy of a complaints form which sets out your complaint. Could you please read through it and let me know if there are any mistakes or anything missed out. If you wish it to be changed, can you please contact me as soon as possible to let me know.)

Your complaint will be investigated by*name of officer*..... of this department. We will be in touch with you within 15 working days, that is by ...*date*... , to let you know the outcome of the investigation. If the investigation is going to take longer to complete we will be in touch and let you know when you can expect to hear from us.

I would be very grateful if you would complete and return the enclosed monitoring form in the pre-paid envelope provided. This helps us to ensure that we are providing a good service to all complainants. This information will not be used in the investigation of your complaint and will not affect the way your complaint is handled.

I also enclose a copy of the complaints leaflet which explains how the Council's complaints procedure works.

Yours sincerely

Enc.

* *When a complaint has been registered by phone or visit, complainants should be provided with a written account of their complaint, to ensure their agreement of what the complaint covers and what is to be investigated. This can be in the form of a completed complaints form or a note which covers the same topics.*

OUTCOME OF INVESTIGATION – Suggested format

Dear ...*name of complainant*... ,

FORMAL COMPLAINT ABOUT*type of complaint*.....

As promised in our letter of ...*date*..., I am writing to let you know the outcome of our investigation of your complaint.

Your complaint to the Council is that..... *brief summary of complaint*

Your complaint has been investigated and the findings are set out below.

.....*A brief report of your investigation covering each element of the complaint in turn. This may include, for example, a summary of information collected/ a copy of the report by the investigating officer/a sequence of events/ reasons for Council decisions or actions/ factors taken into consideration when make judgement on the complaint/ etc., as appropriate.*

I trust that I have covered all the points raised in your formal complaint. Please contact me if you feel this is not the case. Having reviewed this case, I therefore conclude that your complaint is *upheld/partly upheld/not upheld*.

(If “upheld” or “partly upheld”, a remedy of some sort should be offered. This can be an apology, a promise to ensure that it doesn’t happen again, arranging for a service to be provided, etc, etc. See Appendix 5 of Corporate Complaints Procedure.)

I hope these comments indicate clearly the Council’s position in response to your complaint. If you wish to take this matter further with the Council, you have the right to appeal against the outcome. Any appeal would be referred to the Council’s ...*relevant PfH*... Portfolio Holder (a member of the Council’s Cabinet) who would review the documentation and decide whether or not the appeal should be heard by the General Purposes Committee. I enclose a leaflet explaining the complaints procedure and the next stage of the process, should you wish to pursue it, is explained on the back page. If you wish your complaint to be reviewed by the Portfolio Holder, please let me know within 15 working days, that is by*date*.....

The leaflet also explains how to complain to the Local Government Ombudsman who can make an independent investigation of your complaint, if you remain unhappy with the way we have dealt with it.

Yours sincerely

Enc.