

Complaints Procedure

www.torbay.gov.uk



Contents

Introduction	2
What is a corporate complaint?	2
Making a complaint	2
How we will deal with a complaint	3
Initial assessment	3
Investigation	3
Referral to the Local Government Ombudsman	3
Complaints that do not come under the Council's Complaints Procedure	4
Version Control	9

Introduction

Torbay Council is committed to dealing with concerns you may have about our services effectively. If we have got something wrong, we'll apologise and will try to put things right. The information we gain from customer feedback allows us to identify areas where we can make improvements.

We will always aim to deal with issues that are raised as soon as we can within the resources we have available to us.

What is a corporate complaint?

Torbay Council defines a corporate complaint as a customer letting us know they are unhappy with:

- the quality and/or standard of service provided
- the quality of information and/or advice given
- the Council's failure to comply with procedures, rules, statutory obligation or published service standards.

This definition encompasses a wide range of issues that can be considered as a complaint. However, the Corporate Complaints Procedure excludes situations where an officer nearest to the point of service delivery resolves the query within 48 hours, such as a missed refuse collection or a telephone call not being returned immediately.

This procedure does not cover complaints about social care for children and adults.

Making a complaint

A complaint can be made:

- Online: www.torbay.gov.uk/complaints
- Email: infocompliance@torbay.gov.uk
- Post: Information Compliance Team, Town Hall, Torquay, TQ1 3DS

For any complaints which are received by telephone, the complaint will not be progressed until the complaint issues have been confirmed in writing with the customer.

To help us deal with a complaint effectively the customer needs to tell us:

- What the problem is
- How and when it occurred
- How it has affected them
- What they would like us to do to put things right.

How we will deal with a complaint

Initial assessment

- We will acknowledge a submitted complaint within three working days of receipt
- The Information Compliance Team will review the issues raised to determine whether the matters should be investigated under this procedure (see appendix A for complaints which we will not consider)
- We will confirm the outcome of our initial assessment in writing within seven working days of the acknowledgement of receipt
- The initial assessment will determine whether the submitted complaint reveals a sufficiently serious matter to warrant a corporate investigation. Any matter which is deemed to be a service request will be passed to the relevant department to respond to the customer.
- If the initial assessment indicates that an investigation should be undertaken, the complaint will be allocated to an Investigating Officer that has not had any involvement in matters being raised.

Investigation

- The Investigating Officer will confirm with the customer the complaint issues to be investigated and the outcome sought and the expected timescales for response.
- The Investigating Officer will then commence an investigation.
- The investigation will consider relevant evidence including: files, copies of correspondence, the views key officers and consider any relevant legislation, policies and guidance available.
- A response to the complaint will be provided within 20 working days following confirmation of the issues to be investigated, unless the complaint is complex in its nature in which we will extend the deadline to 30 working days.
- We will always advise customers when it is necessary to apply an extension.
- Days where the Council Offices are closed, over and above Bank Holidays, will not be considered as working days for the purpose of this procedure, for example closure between Christmas and New Year.
- Before any response is sent to a customer, it will be reviewed corporately by a member of the Information Compliance Team to ensure that the complaint has been investigated in accordance with this procedure.
- The response will include details of what the customer can do if they remain unhappy with the response.

In some instances we may ask to meet with you to discuss your concerns and occasionally we might offer mediation or another method to try and resolve disputes.

Referral to the Local Government Ombudsman

If the customer remains dissatisfied after the investigation has been completed, the customer can refer their complaint to the Local Government and Social Care Ombudsman:

Web: www.lgo.org.uk

Tel: 0300 061 0614

Complaints that do not come under the Council's Complaints Procedure

Although the Council accepts that customers may have a complaint not all complaints will be dealt with under the Council's Complaints Procedure. The decision about whether a complaint falls within the scope of this procedure will be made at the Initial Assessment Stage.

Where the matter has been considered by a regulatory body

Where a complaint has previously been considered by a regulatory body e.g. the Local Government and Social Care Ombudsman or the Information Commissioner's Office, and it is the opinion of the Council that there is no new evidence has been provided, the complaint will not be considered.

Where the complaint is being made on behalf of another individual

If the complaint being raised is on behalf of another person the Council will not consider the complaint unless it is satisfied the person making the complaint has the appropriate authority to do so, for example, a form of authority or consent signed by the parties involved will be required to progress the complaint.

Complaints where the department has not had the opportunity to consider the issues raised or where an alternative reporting mechanism is available

If following the initial assessment of a complaint it is identified that the issues raised have not yet been considered by the department, or where there is an alternative reporting mechanism these will be considered as Service Requests and will not in the first instance handled under this procedure. Examples of this are:

- Breaches of planning conditions (Enforcement Complaints)
- Noise Nuisance
- Anti-social behaviour
- Reporting a fault e.g. pot holes, street lighting, overgrown verges, missed bins, street littering, graffiti, pest control

Online reporting forms can be found through our website www.torbay.gov.uk

Anonymous complaints or complaints when a customer refuses to provide their full name and address

When making a complaint a customer must provide, if requested, their full name and contact details. If a customer believes that providing personal information would not be appropriate, the customer should contact the Information Compliance Team. The Information Compliance Team, in consultation with the appropriate senior manager, will consider the customer's reasons and decide whether, on balance, it is reasonable for the Council to continue to investigate the complaint with some or all of the customer's personal details being withheld.

Complaints relating to issues over 12 months old

The Council will not usually consider a complaint where the customer has left it more than 12 months since knowing about the problem to raise their concerns unless it is satisfied that the customer has a valid reason for the delay.

Disproportionate burden on the Council to investigate a complaint

The initial assessment will determine whether the submitted complaint reveals a sufficiently serious matter to warrant a corporate investigation, complaints which are considered to be minor and would put a disproportionate burden on the Council to investigate them will not be considered.

In addition to this, where a customer's contact with the Council is considered to be unreasonably persistent as defined by the Council's Communication Standards Policy, or where the outcome being sought is not achievable, the Council will consider whether or not there is a disproportionate burden on the Council to investigate the issues being raised.

Examples of complaints of this nature would be "Please can you stop the seagulls from stealing food from tourists" or "My bins have not been emptied today and I would like a refund on my Council Tax". Another example would be where the Council receive a number of complaints from different individuals about the same matter.

Complaints about a Councillor

For complaints regarding any elected representative on Torbay Council or Town Council or any Independent Co-opted Member these need to be considered under the Council's Constitution. These types of complaints must be made in writing to Governance Support, Torbay Council, Town Hall, Torquay, TQ1 3DR. Such complaints will be considered by the Monitoring Officer under the Members Code of Conduct. Further information can be found at:
www.torbay.gov.uk/behaviourinterestsstandards

Planning applications

A complaint about a planning application that has not yet been determined will not be considered under the Corporate Complaints Procedure. In these cases the customer has the right to make an objection against the application. The Council will also not consider complaints about the refusal of planning permission; if the customer remains unhappy an appeal can be made to the Planning Inspectorate.

Where an appeals mechanism is available

Where a customer has, or had, a right to appeal against a decision, or take legal action the Council will not consider the decision made under the Corporate Complaint Procedure.

The Corporate Complaints Procedure will only look at whether, in making a decision, the officer has followed relevant legislation, guidelines and policies.

Examples of where this may be the case include but are not limited to Housing Benefit entitlement; Council Tax Banding; planning application decisions; an application for a school place; how the council has dealt with a request for information under access to information legislation; disagreement with the issuing of a parking ticket and any other penalty charge notices.

Complaints about decisions where services cannot be provided due to funding / budget limitations

Where the Council has already taken a decision not to provide a service due to budget limitations and this has been approved through the proper budget setting process, including in-year amendments made through Delegated Powers the Council will not consider a complaint under this procedure.

Complaints about services delivered through partner organisations delivering services on the Council's behalf

Partner organisations such as TOR2, TDA, Libraries Unlimited, Healthmatic, Torbay Coast and Countryside Trust and Torbay and South Devon NHS Foundation Trust are responsible for dealing with complaints relating to the services they are delivering on behalf of Torbay Council. Although we recognise that these partner organisations deliver services that are the overall responsibility of the Council these partner organisations working on our behalf have their own procedures in place for managing complaints. These partner organisations must be given the opportunity to investigate issues raised about those services in the first instance. The Council will ensure that complaints which fall within this category are forwarded to the relevant organisation within 3 working days of receipt.

If once the complaint has been through the partner organisation's own internal complaints procedure, if the customer remains unhappy, the matter can be referred to the Council's Information Compliance Team, within 30 working days of the date of the partnership organisation's last response to determine whether the Council will consider the issues raised.

Complaints about partnerships/outside bodies

The Council often supports and facilitates local partnership boards such as the Design Review Panel and the Torbay Together Partnership however, complaints about these partnerships will not be investigated under the Corporate Complaints Procedure. Any representations must be made to the Chair of the relevant partnership.

If the complaint issues being raised relate to the conduct of a Council employee of which breaches the Council's Constitution, these may be considered through the Council's own HR Policies.

Court or tribunal action

Matters that concern the commencement or conduct of civil court action or other tribunal proceedings and/or matters which have already been before a court or tribunal will not be dealt with under the Complaints Procedure.

Council's legal or professional opinion

The Council will not accept complaints about legal or professional opinion provided by a Council officer who is governed by a professional body (e.g. solicitor).

Insurance claims

Matters where the customer is seeking compensation through the Council's insurers will be considered by the Council's Claims Handling Team.

Personnel matters

Complaints received from Council employees about their employment, including pay, pensions or dismissal; or complaints about applications for employment will not be processed under the Corporate Complaints Procedure. These will be passed to Human Resources for consideration.

Council policy

Disagreement with a Council policy that has been implemented or a Council decision that has been made properly in accordance with the Council's Constitution will not be considered through the Complaints Procedure.

Representations can either be made to the local Councillor, the relevant committee meeting or application to the Courts to Judicially Review the Council's decision.

Complaints about schools

The Council does not have a duty to investigate complaints about schools. All complaints about schools should be made directly to the school.

Complaints about social care for children or adults

Complaints relating to Children's Social Care will be considered under the Children's Services Complaints and Representations Policy.

Complaints relating to Adult Social Care will be referred to:

Torbay and South Devon NHS Foundation Trust.
Feedback and Engagement Team
Torbay and Southern Devon Health and Care Trust
Nicholson Road
Torquay
TQ2 7TD

Email: feedback.t-sd@nhs.net

The Council will not consider complaints about the actions of other organisations.

An example of a complaint of this nature would be "My wall has been damaged by a workman who was digging up the highway to install a new gas pipe".

Version Control

Date	Description
17/10/12	Complaints Procedure V-1 Oct 2012 – Effective from 5 November 2012
18/04/13	Removal of LGO email address as no longer use this method of contact
21/04/15	Change to response times for Stage 1 complaints and change to contact details for SDHCT
27/05/16	Changes to email address
05/05/18	Change to timescales for response to Stage 1 complaints
10/01/19	Review and updated of Procedure – amendments made for consideration by SLT
29/08/19	Review of Procedure – amendments for consideration by SLT
27/09/19	Final Version approved