

Report title	Ombudsman Joint Complaint Handling Code - Consultation
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Department	Law and Governance
Exempt	No

Purpose of report:
To Resolve

Synopsis of report:
To approve a corporate response to the Ombudsman’s consultation on a joint complaint handling code for the Local Government and Social Care and Housing Ombudsmen

Recommendation(s):
To Resolve

1. Context and background of report

- 1.1 The Local Government and Social Care Ombudsman and the Housing Ombudsman are consulting on a Joint Complaint Handling Code and have invited local councils and members of the public to respond by the deadline of 23 November 2023.
- 1.2 Local Councils who are members of the Housing Ombudsman scheme have had to follow a complaint handling code since 2020. This applies to Runnymede. Runnymede’s Housing Business centre has its own Complaints Policy and tenant feedback service listening@runnymede.gov.uk
- 1.3 The drive behind the new code is to encourage local councils to resolve complaints as soon as possible without people needing to escalate to the Ombudsman. They would like councils to view complaints as a positive opportunity to make service improvements and improve the customer experience.
- 1.4 A key message from the Ombudsman is that it is not about how many complaints a public authority receives but that they learn from them to provide a gold standard of complaint handling.
- 1.5 It is also important to embed good complaint handling in Leadership and Governance, providing consistency across the board for a better customer experience.

2. Report and, where applicable, options considered and recommended

- 2.1 The Ombudsmen for Local Government and Housing have for some time aspired to producing a joint complaint handling code. This consolidates previous guidance about good complaint handling. The Ombudsmen consider that producing a single standard for complaint handling in the local authority sector makes it simpler for councils and the public to understand how complaints should be dealt with locally. The new draft Complaint Handling Code is attached at Appendix 'A.'
- 2.2 Our current Complaints Policy defines complaints as:
- 'an expression of dissatisfaction about a Council service (whether the service is provided directly by us or by one of our partners/contractors) which requires a response.'*
- 2.3 The new code will require all councils to have the following definition of complaint:
- 'an expression of dissatisfaction, however made, about the standard of service, actions or lack of action by the organisation, its own staff, or those acting on its behalf, affecting an individual or group of individuals.'***
- 2.4 We currently define a 'service request' as something which is a first time request and/or which can be reported on line or via any other method we choose to accept. For example, a missed bin collection, a request for information, or an explanation of one of our policies.
- 2.5 In the new code a service request is:
- 'a request from an individual to the organisation requiring action to be taken to put something right.'***
- 2.6 The new definition makes it easier to distinguish between complaints and service requests and a number of complaints will now be regarded as service requests.
- 2.7 The Ombudsman goes on to say that whilst 'service requests are not complaints, they must be recorded, monitored and reviewed regularly. A complaint must be raised when the individual expresses dissatisfaction with the response to their service request, even if the handling of the service request remains ongoing. An organisation must not stop its efforts to address the service request if the individual complains.'
- 2.8 The Ombudsman has clarified that complaints and service requests submitted via a Councillor or directly from a Councillor as a 'Councillor Enquiry' fall within the remit of this Complaints handling code.
- 2.9 This Council's Complaints Policy has a two stage internal process in line with the Ombudsman's guidance. This remains the same under the new code. Currently, we should acknowledge receipt of a complaint within 3 working days and provide a full response within 10 working days. If a person complains via the on-line complaints form which routes to Customer Services they will receive an instant automatic acknowledgement with a message to say that their complaint will be sent to the appropriate department to respond within 10 working days.
- 2.10 At Stage two we also have 10 working days to provide a full response from the date the customer tells us they remain unsatisfied following our stage 1 response. Thereafter, the customer can complain to the Ombudsman where applicable.

- 2.11 The proposed timescales for responding to complaints in the new code are to acknowledge receipt within 5 working days and provide a response within 10 working days of receipt. If more time is needed a further 10 working days (but no more) from the date of receiving the complaint, is stated and to provide the person with details of the relevant Ombudsman if an extension is required.
- 2.12 The Ombudsman expects councils to identify potentially complex complaints early in the process and provide individuals who complain with a realistic timescale within which they can expect a response. Individuals should be kept informed throughout the process. The Ombudsman has suggested that a lack of resources to deal with the complaint cannot be a reason for delays.
- 2.13 Guidance will be issued at the same time as the new Code is issued in January 2024 which will provide more information about exceptions. For example, if the Council experiences a cyber attack and there is a subsequent delay, this would be acceptable provided the customer is kept informed and the reason for the delay is documented as a temporary departure from compliance with the code.
- 2.14 A new requirement is for complainants to be signposted to the Ombudsman at the outset and at each stage rather than at the end of the internal process. The Ombudsman might not necessarily get involved early on but will be looking for an early resolution.
- 2.15 The Ombudsman has provided the following framework for Stage 1 complaints:
- ‘Organisations must confirm the following in writing to the individual at the completion of stage 1 in clear, plain language:***
- a) the complaint stage;***
- b) the complaint definition;***
- c) the decision on the complaint;***
- d) the reasons for any decisions made;***
- e) the details of any remedy offered to put things right;***
- f) details of any outstanding actions; and***
- g) details of how to escalate the matter to stage 2 if the individual is not satisfied with the response.’***
- 2.16 Where a complaint escalates to stage 2 this must be acknowledged within 5 working days of the request (currently 3 working days). The code stipulates the level of seniority of staff that can respond at Stage 2 to being someone who is authorised to speak on behalf of the organisation. Currently, Stage 2 responses are made by Corporate Heads or the Chief and Deputy Chief Executives. The Council must issue a final response within 20 working days of the complaint being received (currently 10 working days). Again, an extension to this should be an exception. Steps a) to g) above apply at Stage 2 as well. The Ombudsman uses the phrase ‘comply or explain’ to justify a temporary departure from the code.
- 2.17 At the end of the process we will need to formalise what we do already in terms of ‘putting things right’ by having a checklist to include:
- Apologising;
 - Acknowledging where things have gone wrong;
 - Providing an explanation, assistance or reasons;
 - Taking action if there has been delay;
 - Reconsidering or changing a decision;
 - Amending a record or adding a correction or addendum;

- Providing a financial remedy;
- Changing policies, procedures or practices.

2.18 There are various other provisions including:

- we should accept complaints made via social media,
- the person does not have to use the word 'complaint' for it to be treated as such,
- the same person should not be responding at Stages 1 and 2,
- we must accept complaints referred to us within 12 months of the issue occurring or the individual becoming aware of the issue
- to exercise discretion outside of this time limit
- taking each case on its merits

2.19 Where contractors or third parties are involved it is the Council's responsibility to ensure they also comply with the joint code when handling complaints.

2.20 The Ombudsman asserts that:

'good complaint handling and the ability to learn from complaints is a measure of corporate health within an organisation. Proper scrutiny of complaint handling performance supports good corporate governance and demonstrates transparency to the public'.

We try to include 'lessons learned' so that best practice can be shared across the organisation.

2.21 The Ombudsman intends to produce some online resources to support the Code on its website. Following this consultation other guidance documentation will be reviewed including:

- Guidance on Effective Complaint Handling
- Manual for Councils (also known as the Link Officer Manual)
- Principles of Good Administrative Practice
- Guidance on managing unreasonable complaint behaviour

2.22 Any subsequent changes to the above documents will be reviewed and our own Complaints Policy and procedures amended if appropriate.

2.23 The Ombudsman has asked local councils to respond to the following questions. Officers have drafted a response to each question which Members are asked to approve and/or amend for an agreed single response to the consultation.

The Questions

1. The joint Code aims to provide a national standard for councils to work to, helping to clarify requirements, simplifying internal processes, and giving assurances to the public and local Members about how complaints must be handled. Does it achieve this?

Yes. However there are new requirements in the code which we are concerned should not become too onerous and detract from the business of resolving complaints in a timely manner. We have no objections to the new timescale of acknowledging receipt and responding to complaints.

2. The joint Code sets out clear expectations for the level of staffing, oversight and governance for councils to have a good complaint handling service. Do you agree?

Yes.

Although it should be acknowledged that small local councils such as Runnymede do not have a dedicated complaints team or Complaints Officer. We do have a Link Officer for the Local Government Ombudsman which is carried out by an Officer in Democratic Services on behalf of the Monitoring Officer. We provide regular reports to the Standards and Audit Committee which has oversight of complaints reporting. We are re-assured by the Ombudsman that the intention is not to make it necessary to restructure the organisation to fit the new code and that Councils are free to decide locally the model that works best for them within limited resources.

3. The joint Code encourages councils to have a learning culture and improve their complaint handling service. Will it support your council to achieve this?

Yes.

We have already used examples from the outcome of complaints elsewhere to improve our services and the level of information on our website. For example, clear and additional signposting to lodging an appeal with regard to Housing Benefit and Council Tax Support on the website, in letters and via staff training

4. We believe the joint Code provides a clear definition of what constitutes a complaint and what should be classed as an upheld complaint. Do you agree?

Yes. The new definitions are clear and the discontinuation of a complaint being 'partially upheld' is noted. However, it is inevitable that the wider definition of a complaint will lead to an initial spike in complaints. We note the Ombudsman's view that if an organisation has got something wrong it must record the complaint as being upheld, even if there are elements of the complaint it has not upheld. We are re-assured by the Ombudsman's view that sub data can be held which gives a breakdown of the elements of a complaint that explains why some parts were upheld and others not.

5. The Code encourages organisations to resolve complaints satisfactorily at an early stage and before they come to an Ombudsman. Do you agree?

Yes. If we can readily resolve an issue before it escalates this is better for all concerned.

6. We will provide further guidance on how the Code should be used by councils. What guidance would you find useful when implementing the Code within your council?

None in addition to that already intended.

7. Do you have any other comments you would like to make about the LGSCO's intention to introduce this statutory Code, including the decision do this jointly with the Housing Ombudsman?

We welcome a joint complaint handling code which makes it clearer to councils and the public and promotes consistency and good practice. We do

however, as a small authority have concerns about resourcing the new reporting requirements subject to any software solution being in place to capture and report on service requests as the volume of these is and will be significant.

- 2.24 The Housing Ombudsman has produced a similar set of questions and Housing colleagues have responded separately, and intend to publish their response on the Council's website.
- 2.25 The Housing questions are:
1. Are the provisions in the Code sufficient to raise awareness and improve access to landlords' complaints processes?
 2. Are the provisions of the Code sufficient to extend fairness through consistent complaint handling?
 3. Do the provisions of the Code increase landlords' transparency and accountability to their residents?
 4. Do the provisions of the Code help to embed a positive complaint handling culture?
 5. Does the complaint performance and service improvement report provide a sufficient framework for landlords' governing bodies, residents and other stakeholders to have oversight of complaints handling policy, practice and learning?
 6. Are our plans to align submissions with Tenant Satisfaction Measure returns an effective approach?
 7. Do our plans to use the complaint performance and service improvement report provide a suitable baseline for HOS to monitor compliance across the sector?
 8. Is our proposed prioritisation of Code compliance assessments, in the event of demand exceeding capacity, fair and reasonable?
- 2.26 Housing colleagues answered 'yes' to all their questions and in the box for other suggestions have said "please provide plenty of on-going publicity, training, guidance and examples of best practice specifically for staff, members and tenants respectively. Knowledge, expertise and enthusiasm can quickly be lost when individuals leave or change roles."
- 2.27 The Joint Code will require councils to conduct an annual self-assessment of compliance with the code and to publish this on the website for transparency and to illustrate how councils view complaints. Appendix 'B' sets out where this Council is currently with compliance if the code was already in place. We have removed this section from the main document at Appendix 'A' to save duplication.
- 2.28 Where councils do not comply with the code they will need to explain why and give an indication of when they intend to comply. This is important because non-compliance with the code may be considered maladministration or service failure. However, the Ombudsman has committed to considering each complaint based on its individual circumstances, including how the council has communicated with the complainant throughout the process and the reasons for any delays before deciding whether there has been maladministration or service failure.

3. Policy framework implications

- 3.1 A joint complaint handling code complements the Council's priority of empowering communities.

4 Resource implications/Value for Money

- 4.1 The consultation in itself does not give rise to any specific resource implications. However, when the code is in place from April 2024 the Council will be required to have a Complaints Officer or someone at a Senior level, who will need to have a corporate overview of complaints (including Housing Complaints) and produce an annual complaints performance and service improvements report and complete an annual self assessment. The self-assessment need not be submitted to the Ombudsman but these will both need to be published on the website and be readily available. This is in addition to the existing regular reports to this Committee and the Annual Ombudsman's report.
- 4.2 All Councils subject to the new statutory code will have a year from 1 April 2024 to 1 April 2025 in which to produce the first year of statistics and demonstrate compliance with the code.
- 4.3 The Ombudsman also intends to publish guidance on best practice for producing an annual complaints performance and service improvement report, including what data should be recorded and reported. This level of detail will be crucial in assessing the resource implications and how the new code fits with our existing performance monitoring arrangements.
- 4.4 In terms of Member involvement the Ombudsman has suggested that there is in effect a lead Member for Complaints. This role can still rest with this Committee, subject to their views. The Ombudsman expects there to be linkage with the Overview and Scrutiny function, the Leader of the Council and the Chief Executive.

5. Legal implications

- 5.1 The Ombudsmen has asserted that they have the power to issue "advice and guidance about good administrative practice" to organisations under section 23(12A) of the Local Government Act 1974. Therefore, the Code will be considered statutory guidance. It is statutory already for members of the Housing Ombudsman scheme.
- 5.2 The Code will be statutory for all local councils, County Councils, Unitary Authorities, London Boroughs, Metropolitan Districts, and District Councils. The Code will not apply to other bodies in the Ombudsmen's jurisdiction such as combined authorities, fire and rescue authorities and private care providers
- 5.3 The Ombudsman suggests that where a statutory complaint contains other related complaints that do not fall under the statutory process but are covered by the Code, the local authority may wish to consider whether there are advantages in accepting these into a single investigation.
- 5.4 The Council's Monitoring Officer has a duty to report to the Council when the Ombudsman makes a finding of maladministration or service failure. The law also says monitoring officers should prepare a report for the Council where there has been "a contravention" by the council (or one of its committees or officers) of law or code of practice or statutory guidance (Section 5/5A Local Government and Housing Act 1989). The Ombudsman believes that the reporting requirements in the Code support this duty.
- 5.5 The Code will apply to any complaint made about a local council where there isn't already a statutory process in place for dealing with complaints.

6. Equality implications

- 6.1 The Council has a duty under the Equality Act 2010. Section 149 of the Act provides that we must have due regard to the need to;
- a) eliminate discrimination, harassment, victimisation and other conduct prohibited by the Act
 - b) advance equality of opportunity
 - c) foster good relations between persons who share a relevant protected characteristic and persons who do not share protected characteristics.
- 6.2 We should at all times act in a way that is non-discriminatory through our policies and procedures and interactions with people.
- 6.3 Organisations should provide different methods which people can use to make a complaint. We accept complaints verbally, face to face, in writing, via the website form and by email.
- 6.4 The Ombudsman reminds organisations of their duties under the Equality Act 2010 to anticipate the needs and reasonable adjustments of individuals who may need to access the complaints process. Our policy states that we will give assistance to people wishing to make a complaint should they need it.
- 6.5 The Ombudsman has stated that the designated complaints officer should be trained in Equalities with access to providing reasonable adjustments for complainants that may need them in order for their complaint to be satisfactorily dealt with.
- 6.6 The Code requires councils to record where adjustments have been made and keep a record of any disabilities an individual has disclosed. In the corporate register we indicate where any of the protected characteristics have been engaged. The additional requirement regarding disability is noted.
- 6.7 There is a requirement within the protocol for dealing with unreasonable complainant behaviour to have regard to the Equality Act if placing a restriction on a person's contact with the council.
- 6.8 The Ombudsman has prepared an Equality Impact Assessment, referred to as a 'live' document which might be amended as a result of the consultation. This is attached at Appendix 'C'.

7. Environmental/Sustainability/Biodiversity implications

- 7.1 None identified.

8. Other implications (where applicable)

- 8.1 Data on complaints is kept in a corporate register and on other software and databases and is therefore subject to Data Protection legislation and the Freedom of Information Act.
- 8.2 The Communications and Web Team will need to be involved in communicating and publishing the annual reports etc.

8.3 Dealing with complaints and compliance may need to be embedded in the Corporate Business Plan / Business Centre Plans and Risk Management Framework.

9. Timetable for Implementation

9.1 The deadline for submitting a response to the consultation is 23 November 2023. The Ombudsmen will consider the feedback and then introduce the Code in early 2024 (aiming for January 2024), to be effective from 1 April 2024. Councils will be given a year to embed the new code, using the guidance as and when it is issued.

10. Background papers

[Complaint Handling Code - Local Government and Social Care Ombudsman](#)

11. Appendices

Appendix 'A' New joint complaint handling code
Appendix 'B' Draft Annual self assessment
Appendix 'C' EQIA produced by the Ombudsman