



Borough of Telford and Wrekin

Cabinet

16 May 2024

New complaint handling code and combined complaint policy

Cabinet Member:	Cllr Nathan England: Cabinet Member: Finance, Customer Services & Governance
Lead Director:	Felicity Mercer: Director: Communities, Customer and Commercial Services
Service Area:	Council Wide
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Wards Affected:	All Wards
Key Decision:	Not Key Decision
Forward Plan:	Not applicable
Report considered by:	SMT – 16 April 2024 Business Briefing – 25 April 2024 Cabinet – 16 May 2024

1.0 Recommendations for decision/noting:

- 1.1 That Cabinet notes the introduction of the new complaint handling code issued by the Local Government and Social Care Ombudsman and the Housing Ombudsman Service and the Council's plans to ensure compliance with the code, despite the additional pressure and burden this will place on Council services.
- 1.2 That Cabinet approves the changes to the new Complaints Policy which is attached at Appendix A. This policy will be introduced with immediate effect.

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- 1.3 That Cabinet grants delegated authority to the Director for Communities, Customer & Commercial Services in consultation with the Lead Cabinet Member for Finance, Customer Service & Governance to make amendments to this policy going forward in line with changes to the appropriate legislation or policy.

2.0 Purpose of Report

- 2.1 The purpose of this report is to outline the requirements of the new complaint handling code of conduct that is being introduced by the Local Government and Social Care Ombudsman (LGSCO) and the Housing Ombudsman Service (HOS) from the 1st April 2024.
- 2.2 The report also highlights the changes to working practices that will need to be introduced across the organisation to ensure compliance with the code, including new, shorter complaint handling timescales and the requirement to undertake annual self-assessments of our compliance with the code. We must be compliant with the HOS code by the 1st April 2024, and compliant with the LGSCO code by the time they start reviewing compliance as part of their casework in 2026/27.
- 2.3 As part of these changes, we are required to combine the existing corporate complaints policy, complaints policy for council tenants, and the policy for complaints involving Child Sexual Exploitation (CSE) into a single policy by 1st April 2024. Our existing statutory complaints policies for Adult Social Care and Children's Services will remain as separate policies with their own specific timescales.

3.0 Background

- 3.1 Last autumn, the Local Government and Social Care Ombudsman (LGSCO) undertook a consultation on the proposal to introduce a new complaint handling code in relation to Local Government complaints and complaints to the Housing Ombudsman Service (HOS). The HOS complaints code affects council tenants for whom we are the registered provider.
- 3.2 We provided a detailed and robust response to the consultation which highlighted a number of significant concerns we had regarding the impact of the proposals on resources, particularly in light of the pressure that Local Government is currently under. We also contributed to a response to the consultation that was submitted by the Local Government Association, which also expressed similar concerns.
- 3.3 On the 8th February 2024, the LGSCO released their conclusion to the consultation, and announced their intention to introduce a new code from the 1st April 2024. The consultation did make some changes to the proposed code, although many of our core concerns regarding the additional pressure this would place on the workloads of Local Authorities were not addressed.
- 3.4 The LGSCO do not intend on considering the code as part of their casework processes until 2026/27 at the earliest. However, tenant complaints will need to comply with the HOS code immediately (1st April 2024) which means that a single policy for all complaints needs to be in place by this date to comply with the statutory code of the HOS, or as soon as possible.

- 3.5 The LGSCO code is intended as advice and guidance for councils not instructions, however, they will make a maladministration finding where Councils depart from the code without sufficient explanation on cases as a whole, but also on individual cases. This will be via their individual case reports but in some cases they may issue a public report if a council is found to not be complying.
- 3.6 The HOS code is statutory. Non-compliance with the code may lead to the HOS issuing a complaint handling failure order (CHFO).
- 3.7 The LGSCO have invited us to take part in a pilot of the new code, which will allow us to have an opportunity to influence development of the new guidance for Local Authorities and the oversight and governance arrangements of the LGSCO when compliance of the new code becomes mandatory from 2026/27.

4.0 Summary of main proposals

4.1 The main elements of the new code are:

Element of new code:	TWC current position:	Impact and proposed response/action (where appropriate):
Organisations should have designated sufficient resource assigned to take responsibility for complaint handling, including liaison with the relevant Ombudsman. Organisations are expected to prioritise complaint handling and a culture of learning from complaints.	We do have dedicated resource to handle complaints, and we believe we do have a culture of learning from complaints, as evidenced by our published annual customer feedback reports.	No additional actions proposed.
Stage 1- Complaints should be acknowledged in 5 working days,	It is for each Local Authority to set its own complaint handling timescales. The Customer Relationship Team have a current target of acknowledging complaints within 2 working days of receipt.	The proposal would be for this to be implemented immediately for all complaints to allow for this to be firmly embedded in the organisation's procedures before 2026/27. Also allowing time to reduce the average working days to respond at Stage 1 before we are monitored in this area.

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<p>A full response to the stage 1 complaint should be provided within 10 days of the complaint being acknowledged.</p> <p>Timescales can be extended by 10 working days but there must be a good reason for this which should be explained to the individual.</p> <p>As part of HOS compliance, we will need to detail all cases that fall outside of the 20 working day timescale within our annual self-assessment.</p> <p>The LGSCO will also expect this level of compliance from 2026/27 when we have to start to publish a self-assessment for non-housing related complaints.</p>	<p>Stage 1 response timescales are currently 15 working days,</p> <p>Stage 1 responses can be extended to 20 working days with good reason.</p> <p>Our current average response time is 12 working days.</p>	<p>Please also note that any individual cases that do not comply with the timescales will need to be detailed in the annual self-assessment under the comply or explain principles.</p>
<p>Stage 2-</p> <p>Should be acknowledged within 5 working days. Individuals should not be required to explain reasons for requesting a stage 2.</p> <p>Organisations should make reasonable efforts to understand why an individual remains unhappy.</p> <p>A full response should be provided within 20 working days of the complaint being acknowledged.</p> <p>This can be extended by a further 20 working days if</p>	<p>Our current stage 2 response timescale is 25 working days, which can be extended to 65 working days with good reason.</p> <p>Our current average response time is 34 working days.</p>	<p>Stage 2's are independently investigated and responded to by the Customer Relationship Team.</p>

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<p>there is good reason and this should be explained to the individual.</p>		
<p>Organisations should have a single policy for dealing with complaints covered by the code. Adult Social Care and Children’s Services Statutory complaints are excluded. However, the expectation is that the council tenant complaints process and CSE process will be combined within the corporate procedure.</p>	<p>We currently have three separate complaint handling policies: corporate complaints policy, complaints policy for council tenants, and the policy for complaints involving Child Sexual Exploitation (CSE). These were only refreshed in 2023.</p>	<p>We now need to have a single policy written and approved to comply with the HOS code. Please see Appendix A for approval.</p>
<p>New definitions of ‘service request’ and ‘complaint’ have been provided. They have said that service requests should be recorded and monitored and reviewed regularly.</p>	<p>The majority of service requests are already reported and monitored through our Customer Relationship Management and other systems, so this element should not involve much additional work for us.</p>	<p>This definition is helpful. Although we are already distinguishing between service requests and complaints in the manner which the new code suggests, our approach was queried during the LGA Peer Review of Customer Services which took place in May 2021 when it was suggested that first requests for action, such a report of a pothole, should be treated as a complaint.</p>
<p>It is essential to ensure that all aspects of a complaint are responded to in full in the stage 1 response. If any element is not responded to at stage 1, then the complainant has the right for those missing elements to be considered at stage 2. Complaint responses must also clearly contain each of the following elements:</p>	<p>Currently, services develop their own responses to complaints and there is no fixed template to ensure that all of these areas are covered in the responses.</p>	<p>A new complaint response template has been designed for use by service areas, to ensure that every aspect of the complaint response has been addressed in full.</p>

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<ul style="list-style-type: none"> ▪ Complaint stage ▪ Complaint definition ▪ Decision on the complaint ▪ Reason for the decision ▪ Remedy ▪ Outstanding actions ▪ How to escalate 		
<p>LGSCO have agreed that MP and Councillor enquiries can be dealt with as 'service requests' even when they contain an expression of dissatisfaction, however it would be good practice in the response to signpost MPs and Councillors to the complaints procedure if they remain dissatisfied.</p>	<p>This is a positive outcome as the initial proposal in the consultation was that these were all included in the complaint procedure.</p>	<p>Proposed action is to brief officers who respond to MP and Councillor enquiries to include a paragraph to signpost them to the complaints procedure if they are dissatisfied with the response they have received. A paragraph will also be included in the allocation emails for MP and councillor enquiries.</p>
<p>Outstanding actions identified through the complaints process should be tracked and actioned promptly, with appropriate updates provided to the individual.</p> <p>We will be required to evidence this as part of the annual self-assessment.</p>	<p>This not something that is currently undertaken. It is assumed by the Customer Relationship Team that each service area will complete any actions that they have promised to a customer. This change would require the CR Team to progress chase each service area for an update on the completion of all actions promised as part of a complaint, record these on our system so that we can report to the LGSCO/HOS in the annual self-assessment and ensure that an update is provided to the customer. This has the potential to require significantly more resource.</p>	<p>Managers of services to continue to monitor delivery of actions included within stage 1 complaint responses. CR team to monitor delivery of actions in Stage 2 complaints.</p> <p>Service managers will need to monitor progress against agreed actions and provide this evidence to the CR Team annually as part of the self-assessment.</p>
<p>Where an organisation asks for feedback about its services through a</p>	<p>This not something that is routinely included in surveys.</p>	<p>Service areas have now been asked to ensure that this wording is added to</p>

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<p>survey, it should provide details of how individuals can complain so they can pursue any dissatisfaction if they so wish.</p>		<p>any future surveys that are issued.</p>
<p>A new requirement has been introduced for an annual self-assessment to be completed with evidence to demonstrate how the organisation follows the code and its own policies.</p>		<p>This is a significant new burden as two self-assessments will need to be completed each year with evidence of compliance. For HOS we MUST follow the code and complete a 24 page self-assessment including evidence. The HOS will assess compliance with the code across three areas, including scrutiny and oversight, compliance in policy, and compliance in practice in accordance with the Code Compliance Framework. From 2026/27 the LGSCO will expect that a separate self-assessment is completed for non-housing related complaints.</p>
<p>LGSCO intends to publish an accompanying guide on best practice for producing an annual complaints performance and service improvement report, including which data could be recorded and reported. There will also be a final guide for Council's published in 2024/25.</p>	<p>We already publish an annual customer feedback report which includes detailed analysis of complaint handling.</p>	<p>The LGSCO have asked for Councils to register their interest on working with them to develop these new guides. We have submitted our interest, whilst reiterating that we still have significant concerns about the additional pressure and burden that these new codes will place on Local Authority services.</p>

4.2 New combined Corporate Complaints, Compliments and Comments policy and procedure

4.2.1 The new policy, which is attached at Appendix A, combines the previous corporate complaints policy, council tenant complaints policy and policy for complaints involving CSE into a single policy and procedure.

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4.2.2 The policy reflects the new timescales as outlined in the code, although we will only be expected to be meeting these for housing complaints initially.

4.2.3 We have also taken the opportunity to clarify the policy around restricted contact arrangements for vexatious and persistent complainants. Specifically,

- Where matters have previously been responded to, correspondence will be kept on file and not responded to.
- Any restrictions placed on contact due to unacceptable behaviour will be proportionate and demonstrate regard for the provisions of the Equality Act 2010 and;
- Where a person's attempts to circumvent the contact restrictions put in place under this policy we can and will make a decision based upon the evidence and, if necessary, extend the contact restrictions to other parties/ persons if judged appropriate.

4.2.4 The requirement for us to ensure we are adopting any learning points from complaints has also been reinforced in the new policy.

4.2.5 As the previous stand-alone policy regarding complaints relating to CSE was developed with consultees with lived experience, this new combined policy has also been shared with them for comment.

5.0 **Alternative Options**

5.1.0 The HOS code is statutory. Non-compliance with the code may lead to the HOS issuing a complaint handling failure order (CHFO) - Type 3. There are three types of failure orders that can be issued.

CHFO Type 1	Issued in relation to failings in an individual case, where the Ombudsman has taken reasonable steps to seek engagement from a landlord, but the resident remains unable to progress a complaint through the landlord's process
CHFO Type 2	Issued on an individual case where the landlord has failed to provide information, either at the outset of, or during, an investigation or to confirm compliance with our orders, to the Ombudsman as requested
CHFO Type 3	Issued following assessment by the Ombudsman through duty to monitor activities.

In all cases the Ombudsman will provide a landlord with details of the presenting issue and provide an opportunity for the landlord to rectify this before a complaint handling failure order is made.

The Ombudsman will publish details of CHFOs issued on a quarterly basis, including type, landlord names and whether the order was complied with. This information will also be reported to the Regulator for Social Housing.

5.2 The action specified in a complaint handling failure order could result in the Ombudsman taking further action such as referrals to the landlord's governing body or the Regulator of Social Housing, ordering the landlord to publish details of its failure to comply and/or publishing a special report on the landlord's non-compliance.

5.3 However, the LGSCO element of the code is purely guidance, so we do have options around how much additional resource we apply to meet the new requirements of this element of the code. We do have to complete an annual self-assessment within which will need to report any cases that have not complied with the code. The LGSCO may issue individual case reports but in some cases they may issue a public report if a council is found to not be complying.

6.0 Key Risks

6.1 Meeting the requirements of the new code will place additional pressure on Council resources, both in the Customer Relationship Team and the service areas who are responsible for investigating and responding to the complaints within these new timescales. However, failure to comply with the code could result in a maladministration finding from the LGSCO, or the issuing of a complaint handling failure order from the HOS.

7.0 Council Priorities

7.1 A community- focussed, innovative Council providing efficient, effective, and quality services.

Key outcome: Our customer experience is the best possible and facilities are accessible to all.

8.0 Financial Implications

8.1 Meeting the requirements of the new code will be met from within existing council resources as detailed in section 4.1 of the report. This will be funded from existing budgets.

9.2 Any future requirement for additional resource and any further financial implications will need to be considered as part of the Medium Term Financial Strategy.

9.0 Legal and HR Implications

9.1 The Council, as a Registered Provider, is required to comply with the Complaints Handling Code which has now been published by the Housing Ombudsman Service. Legal support has also been provided in development of the policies and will continue to be provided as necessary.

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There are no additional HR implications aside from resource implications as detailed in this report.

10.0 Ward Implications

10.1 There are no specific ward implications from this report.

11.0 Health, Social and Economic Implications

11.1 There are no specific health, social or economic implications arising from this report.

12.0 Equality and Diversity Implications

12.1 All of the borough's customers and stakeholders will be impacted by the introduction of the new complaint handling code.

13.0 Climate Change and Environmental Implications

13.1 There are no climate change or environmental implications arising from this report.

14.0 Background Papers

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

[Complaint Handling Code | Housing Ombudsman Service \(housing-ombudsman.org.uk\)](#)

15.0 Appendices

15.1 Appendix A - Corporate Complaints Policy and Procedure 2024

16.0 Report Sign Off

Signed off by	Date sent	Date signed off	Initials
Legal	2/4/2024	10/4/2024	EH
Finance	2/4/2024	5/5/2024	PT